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ABSTRACT

In 1992, the Annie E. Casey Foundation launched a multiyear, multisite project known as the Juvenile Detention Alternatives Initiative (JDAI). This report focuses on reducing racial disparities in juvenile detention. The number of youth held in secure detention nationwide increased by 72% from 1985 to 1995. During this period, the number of white youth dropped, and youth of color came to represent the majority of young people in detention. The first chapter, "Why Should We Focus on Racial Disparities in Juvenile Detention," outlines the problem. The second chapter contains "Guiding Principles for Reducing DMC (Disproportionate Minority Confinement) in Detention." These principles center on equal treatment, careful collection of data, and thorough examination of policies and practices. The third chapter considers the scope and causes of DMC, and the fourth chapter discusses efforts to reduce racial disparities in the JDAI sites. The final chapter discusses lessons learned in the JDAI initiatives. (Contains 24 figures and 35 references.) (SLD)

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PATHWAYS TO JUVENILE DETENTION REFORM

REDUCING RACIAL DISPARITIES

in juvenile detention

UD 035 217

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by Eleanor Hinton Hoytt, Vincent Schiraldi, Brenda V. Smith, and Jason Ziedenberg

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SERIES PREFACE

Many years ago, Jim Casey, a founder and long-time CEO of the United Parcel Service, observed that his least prepared and least effective employees were those unfortunate individuals who, for various reasons, had spent much of their youth in institutions or who had been passed through multiple foster care placements. When his success in business enabled him and his siblings to establish a philanthropy (named in honor of their mother, Annie E. Casey), Mr. Casey focused his charitable work on improving the circumstances of disadvantaged children, in particular by increasing their chances of being raised in stable, nurturing family settings. His insight about what kids need to become healthy, productive citizens helps to explain the Casey Foundation's historical commitment to juvenile justice reform. Over the past two decades, we have organized and funded a series of projects aimed at safely minimizing populations in juvenile correctional facilities through fairer, better informed system policies and practices and the use of effective community-based alternatives.

In December 1992, the Annie E. Casey Foundation launched a multi-year, multi-site project known as the Juvenile Detention Alternatives Initiative (JDAI). JDAI's purpose was straightforward: to demonstrate that jurisdictions can establish more effective and efficient systems to accomplish the purposes of juvenile detention. The initiative was inspired by work that we had previously funded in Broward County, Florida, where an extremely crowded, dangerous, and costly detention operation had been radically transformed. Broward County's experience demonstrated that interagency collaboration and data-driven policies and programs could reduce the numbers of kids behind bars without sacrificing public safety or court appearance rates.

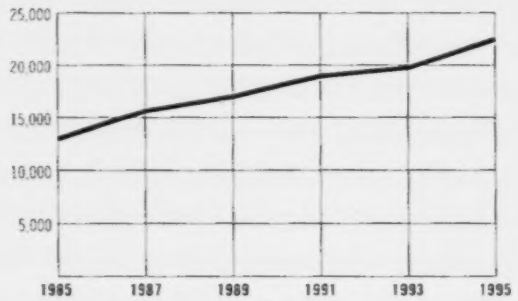
Our decision to invest millions of dollars and vast amounts of staff time in JDAI was not solely the result of Broward County's successful pilot endeavors, however. It was also stimulated by data that revealed a rapidly emerging national crisis in juvenile detention. From 1985 to 1995, the number of youth held in secure detention nationwide increased by 72 percent *(see Figure A)*. This increase

might be understandable if the youth in custody were primarily violent offenders for whom no reasonable alternative could be found. But other data *(see Figure B)* reveal that less than one-third of the youth in secure custody (in a one-day snapshot in 1995) were charged with violent acts. In fact, far more kids in this one-day count were held for status offenses (and related court order violations) and failures to comply with conditions of supervision than for dangerous delinquent behavior. Disturbingly, the increases in the numbers of juveniles held in secure detention facilities were severely disproportionate across races. In 1985, approximately 56 percent of youth in detention on a given day were white, while 44 percent were minority youth. By 1995, those numbers were reversed *(see Figure C)*, a consequence of greatly increased detention rates for African American and Hispanic youth over this 10-year period.[1]

As juvenile detention utilization escalated nationally, crowded facilities became the norm rather than the exception. The number of facilities

FIGURE A

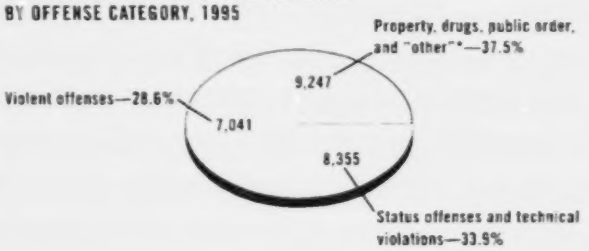
AVERAGE DAILY POPULATION OF JUVENILES IN U.S. PUBLIC DETENTION CENTERS, 1985-1995



Source: Census of Public and Private Juvenile Detention, Correctional and Shelter Facilities, 1985-1995.

FIGURE B

ONE-DAY COUNTS IN DETENTION FACILITIES BY OFFENSE CATEGORY, 1995



*Examples of "other" include alcohol and technical violations.
Source: Census of Public and Private Juvenile Detention, Correctional and Shelter Facilities, 1985-1995.

FIGURE C

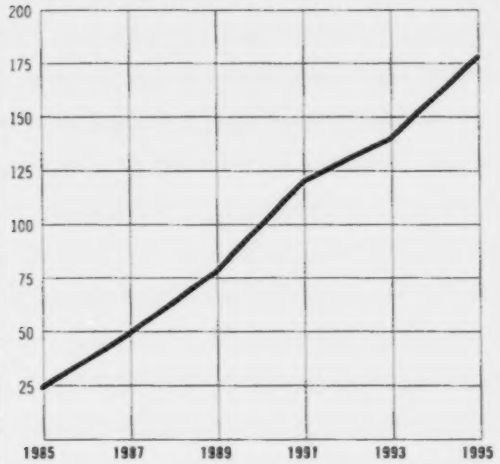
JUVENILES IN PUBLIC DETENTION CENTERS BY MINORITY STATUS, 1985-1995

Source: Census of Public and Private Juvenile Detention, Correctional and Shelter Facilities, 1985-1995.

operating above their rated capacities rose by 642 percent, from 24 to 178, between 1985 and 1995 (*see Figure D),* and the percentage of youth held in overcrowded detention centers rose from 20 percent to 62 percent during the same decade *(see Figure E).* In 1994, almost 320,000 juveniles entered overcrowded facilities compared to 61,000 a decade earlier.

FIGURE D

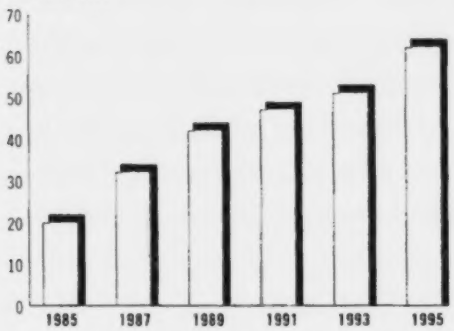
NUMBER OF OVERCROWDED U.S. PUBLIC DETENTION CENTERS, 1985-1995



Source: Census of Public and Private Juvenile Detention, Correctional and Shelter Facilities, 1985–1995.

FIGURE E

PERCENTAGE OF JUVENILES IN OVERCROWDED U.S. PUBLIC DETENTION CENTERS, 1985-1995



Source: Census of Public and Private Juvenile Detention, Correctional and Shelter Facilities, 1985–1995.

Crowding is not a housekeeping problem that simply requires facility administrators to put extra mattresses in day rooms when it's time for lights out. Years of research and court cases have concluded that overcrowding produces unsafe, unhealthy conditions for both detainees and staff. A recently published report by staff of the National Juvenile Detention Association and the Youth Law Center summarizes crowding's impact:

> *Crowding affects every aspect of institutional life, from the provision of basic services such as food and bathroom access to programming, recreation, and education. It stretches existing medical and mental health resources and, at the same time, produces more mental health and medical crises. Crowding places additional stress on the physical plant (heating, plumbing, air circulation) and makes it more difficult to maintain cleaning, laundry, and meal preparation. When staffing ratios fail to keep pace with population, the incidence of violence and suicidal behavior rises. In crowded facilities, staff invariably resort to increased control measures such as lockdowns and mechanical restraints.*[2]

Crowding also puts additional financial pressure on an already expensive public service. Operating costs for public detention centers more than doubled between 1985 and 1995, from $362 million to almost $820 million *(see Figure F).* Some of these increased operating expenses are no doubt due to emergencies, overtime, and other unbudgeted costs that result from crowding.

FIGURE F

TOTAL OPERATING EXPENDITURES IN U.S. PUBLIC DETENTION CENTERS, 1985-1995

Source: Census of Public and Private Juvenile Detention, Correctional and Shelter Facilities, 1985–1995.

JDAI was developed as an alternative to these trends, as a demonstration that jurisdictions could control their detention destinies. The initiative had four objectives:

- to eliminate the inappropriate or unnecessary use of secure detention;
- to minimize failures to appear and the incidence of delinquent behavior;
- to redirect public finances from building new facility capacity to responsible alternative strategies; and
- to improve conditions in secure detention facilities.

To accomplish these objectives, participating sites pursued a set of strategies to change detention policies and practices. The first strategy was *collaboration,* the coming together of disparate juvenile justice system stakeholders and other potential partners (like schools, community groups, the mental health system) to confer, share information, develop systemwide policies, and promote accountability. Collaboration was also essential for sites to build a consensus about the limited purposes of secure detention. Consistent with professional standards and most statutes, they agreed that secure detention should be used only *to ensure that alleged delinquents appear in court at the proper times and to protect the community by minimizing serious delinquent acts while their cases are being processed.*

Armed with a clearer sense of purpose, the sites then examined their systems' operations, using objective data to clarify problems and dilemmas and to suggest solutions. They changed how admissions decisions were made (to ensure that only high-risk youth were held), how cases were processed (particularly to reduce lengths of stay in secure detention), and created new alternatives to detention programs (so that the system had more options). Each site's detention facility was carefully inspected and deficiencies were corrected so that confined youth were held in constitutionally required conditions. Efforts to reduce disproportionate minority confinement and to handle "special" detention cases (e.g., probation violations or warrants) were also undertaken.

In practice, these reforms proved far more difficult to implement than they are now to write about. We began JDAI with five sites: Cook County, IL; Milwaukee County, WI; Multnomah County, OR; New York City; and Sacramento County, CA. Just about when implementation activities were to begin, a dramatic shift occurred in the nation's juvenile justice policy environment. High-profile cases, such as the killing of several tourists in Florida, coupled with reports of significantly increased juvenile violence, spurred both media coverage and new legislation antithetical to JDAI's notion that some youth might be "inappropriately or unnecessarily" detained. This shift in public opinion complicated matters in virtually all of the sites. Political will for the reform strategies diminished as candidates tried to prove they were tougher on juvenile crime than their opponents. Administrators became reluctant to introduce changes that might be perceived as "soft" on delinquents. Legislation was enacted that drove detention use up in several places. Still, most of the sites persevered.

At the end of 1998, three of the original sites—Cook, Multnomah, and Sacramento Counties—remained JDAI participants. Each had implemented a complex array of detention system strategies. Each could claim that they had fundamentally transformed their system. Their experiences, in general, and the particular strategies that they implemented to make their detention systems smarter, fairer, more efficient, and more effective, offer a unique learning laboratory for policymakers and practitioners who want to improve this critical component of

the juvenile justice system. To capture their innovations and the lessons they learned, we have produced this series of publications—***Pathways to Juvenile Detention Reform.*** The series includes 13 monographs, all but two of which cover a key component of detention reform. (As for the other two monographs, one is a journalist's account of the initiative, while the other describes Florida's efforts to replicate Broward County's reforms statewide.) A complete list of the titles in the ***Pathways*** series is provided at the end of this publication.

By the end of 1999, JDAI's evaluators, the National Council on Crime and Delinquency, will have completed their analysis of the project, including quantitative evidence that will clarify whether the sites reduced reliance on secure detention without increasing rearrest or failure-to-appear rates. Data already available, some of which was used by the authors of these monographs, indicate that they did, in spite of the harsh policy environment that drove detention utilization up nationally.

For taking on these difficult challenges, and for sharing both their successes and their failures, the participants in the JDAI sites deserve sincere thanks. At a time when kids are often disproportionately blamed for many of society's problems, these individuals were willing to demonstrate that adults should and could make important changes in their own behavior to respond more effectively to juvenile crime.

Bart Lubow
Senior Associate and Initiative Manager
The Annie E. Casey Foundation

Notes

[1] In 1985, white youth were detained at the rate of 45 per 100,000, while African American and Hispanic rates were 114 and 73, respectively. By 1995, rates for whites had decreased by 13 percent, while the rates for African Americans (180 percent increase) and Hispanics (140 percent increase) had skyrocketed. Wordes, Madeline and Sharon M. Jones. 1998. "Trends in Juvenile Detention and Steps Toward Reform," *Crime and Delinquency, 44(4):*544–560.

[2] Burrell, Sue, et. al., *Crowding in Juvenile Detention Centers: A Problem-Solving Manual,* National Juvenile Detention Association and Youth Law Center, Richmond, KY, prepared for the U.S. Department of Justice, Department of Justice Programs, Office of Juvenile Justice and Delinquency Prevention (December 1998), at 5–6.

Chapter 1

WHY SHOULD WE FOCUS ON RACIAL DISPARITIES IN JUVENILE DETENTION?

It is impossible to talk about juvenile detention reform without talking about the disproportionate confinement of youth of color. As noted in the preface, the number of youth held in secure detention nationwide increased by 72% from 1985 to 1995. During this period, the proportion of white youth in detention dropped, and youth of color came to represent a majority of the young people detained. Between 1983 and 1997, the overall youth detention population increased by 47%, but the detained white youth population increased by 21%, while the detained minority youth population grew by 76%[1]. This means that 80% of the increase in youth being detained during these years were youth of color, or put another way, 4 out of 5 new youth detained during this 15-year period were youth of color. Recent research by the Office of Juvenile Justice and Delinquency Prevention (OJJDP) and the *Building Blocks for Youth* initiative has documented the scale at which youth of color are affected by policies that have expanded the use of juvenile detention:

- Of the 105,790 youth in juvenile detention facilities prior to adjudication or committed to state juvenile correctional facilities following adjudication in 1997, minority youth represented 63% committed, even though they only represent 34% of the total youth population in the United States. White youth represented 71% of the youth arrested for crimes nationwide but only 37% of committed youth.[2]

- In 1997–98, African American youth represented 15% of the total youth population, but 26% of the youth arrested, 31% of the youth referred to juvenile court, and 44% of the youth detained.[3]

By 1997, in 30 out of 50 states (which contain 83% of the U.S. population) youth of color represented the majority of youth in detention. Even in states with tiny ethnic and racial minority populations (like Minnesota, where the general population is 90% white, and Pennsylvania, where the general population is 85%

white), more than half of the detention population are youth of color. In 1997, OJJDP found that in every state in the country (with the exception of Vermont), the minority population of detained youth exceeded their proportion in the general population.[4]

Because detention is a key entry point from which youth further penetrate the juvenile justice system, decisions made at detention can have a profound impact on disproportionality throughout the system. Both aggregate national and individual state data show that racial disparities increase at every stage of the juvenile justice process. For example, when white youth and African American youth with no prior admissions to public facilities were charged with the same offenses, African American youth were six times more likely to be incarcerated than white youth. Latino youth were three times more likely than white youth to be incarcerated. In 1997, youth of color comprised 46% of the cases transferred by the judicial system to adult criminal court and 58% of the youth admitted to state prisons. Three out of four youth admitted to a state prison in 1997 were minority.[5] If disparities in detention could be reduced, these subsequent disparities should also decline.

Since the increase in juvenile detention utilization was fueled almost wholly by the increased incarceration of youth of color, any strategy designed to reduce the number of young people detained must address race, and the "race effect," that researchers say follow racial and ethnic minorities as they travel through the justice system. Juvenile detention reform efforts must reflect the reality that minority youth bear the brunt of policies that lead to the arrest, processing, detaining, adjudication, and imprisonment of young people.

FIGURE 1

DEFINING THE PROBLEM: DISPROPORTIONATE MINORITY CONFINEMENT

Minority
An individual who is of a race other than white or who is of Latino ethnicity, regardless of race. These groups are considered minorities within the U.S. context.

Disproportionate Minority Confinement (DMC)
A condition that exists when a racial/ethnic group's representation in confinement exceeds their representation in the general population.

Disparity
Different treatment of individuals who are similarly situated or who have common characteristics.

Discrimination
Occurs in the juvenile justice system when decisionmakers treat one group of juveniles differently from another group of juveniles based wholly or in part on their gender, racial, and/or ethnic identity.

Juvenile Justice and Delinquency Prevention Act Mandate
Since 1988, the Juvenile Justice and Delinquency Prevention Act has required states that receive funding under the act to determine whether the proportion of juvenile minorities in confinement exceeds their proportion in the general population. The act was amended by Congress in 1992 to make it a "core requirement" that states demonstrate they are taking efforts to reduce DMC.

Source
Youth Crime/Adult Time, Building Blocks for Youth (October 2000). "Minorities in the Juvenile Justice System." *Juvenile Justice Bulletin*. (December, 1999).

In this ***Pathway*** we explore why youth of color are overrepresented in the juvenile detention system and review what has been done in some sites to reduce the number of minority youth in detention. Dealing with disparity in the use of detention has been one of the most challenging pieces of the detention reform puzzle in the different jurisdictions working on the Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative (JDAI). As the preface notes, since the early 1990s, the Foundation has worked closely with a series of communities to promote detention reform, including Cook County, IL; Multnomah County, OR; Sacramento County, CA; and Santa Cruz County, CA. While JDAI was not originally conceived as a DMC reduction program, the sites wrestled with the issue for varying periods of time. Together, the stories of what occurred in the JDAI sites provide important guidance on how to reduce racial and ethnic disparities in the use of detention.

There are, of course, many factors beyond the scope of the juvenile justice system that influence the disparate detention of youth of color *(see Figure 1)*. Many of these broader problems are beyond the scope of juvenile justice reform advocates. However, we now know there are strategies that can be used to begin reducing the number of youth of color in detention and to create a fairer and more equitable system.

Notes

[1]Numbers of youth detained from Sickmund, Melissa and Snyder, Howard. *Juvenile Offenders and Victims: 1997 Update on Violence—Statistical Summary.* Washington, DC: Office of Juvenile Justice and Delinquency Prevention, 1997; Sickmund, Melissa and Snyder, Howard. *Juvenile Offenders and Victims: 1999 National Report.* Washington, DC: Office of Juvenile Justice and Delinquency Prevention, 2000.

[2]Jones, Michael and Poe-Yamagata, Eileen. *And Justice for Some.* Washington, DC: Building Blocks for Youth, 2000.

[3]Jones and Poe-Yamagata, 2000.

[4]Snyder, Howard et al. *Easy Access to Juvenile Court Statistics: 1988–1997* [data presentation and analysis package]. Pittsburgh, PA: National Center for Juvenile Justice [producer]. Washington, DC: Office of Juvenile Justice and Delinquency Prevention [distributor], 1999.

[5]Jones and Poe-Yamagata, 2000.

Chapter 2

GUIDING PRINCIPALS FOR REDUCING DMC IN DETENTION

A number of key principals emerged over the course of the work described in Chapter 4. On reflection, they seem appropriate to any efforts aimed at eliminating racial disparities in detention. They include:

- **All children should be treated equally within the juvenile detention system.** Although it should be unnecessary to state, if white youth and youth of color commit the same offense, and have similar delinquency histories, they should have the same likelihood of being detained. Unfortunately, this is often not the case. Objectives of detention reform, therefore, should include unbiased, race-neutral assessments to guide admission decisions and equal access to various release opportunities for all youth. Barriers to minority youths' access to alternatives-to-detention programs, for example, must be removed, even if those barriers are unintended. For example, some youth may be unlikely to participate in certain programs because of where the program is located. In some jurisdictions, this phenomenon might not even be examined, much less seen as something that can be fixed. But, if a barrier such as program location results in differential access by race, change is needed. However, while most everyone agrees with this basic principle, many systems lack sufficient focus and determination to identify and eliminate factors that contribute to racially unequal treatment.

- **Racial disparities in detention occur because of both conscious and subconscious racism.** Individualized and institutionalized racism play the same roles in juvenile detention that they do in other aspects of American life, although it is often harder to reconcile this reality with the articulated ideals of our justice system. Whether the issue is racial profiling of motorists, police shootings of unarmed citizens, unequal application of the death penalty, or lack of access to quality defense representation, racism influences the decisions that are made and the options that are available in the justice system just as they do in housing, employment, or education. All forms of racism, both overt and subconscious,

must be confronted and remedied if we want a genuinely fair justice system, including one that does not detain certain groups more than others only because of the color of their skin or their ethnicity.

- **Disparities in detention are often unintended consequences of seemingly race-neutral practices.** In many places, decisionmakers simply did not know that new laws or policies would result in the disparate detention of youth of color. For example, in Illinois, legislators believed that requiring youth to be tried as adults for drug sales within 1,000 feet of a school or public housing project would reduce drug crime. They did not anticipate that in Cook County this law would almost exclusively impact youth of color—where 99% of the youth legislatively excluded from juvenile court for drug crimes were African American or Latino. A consistent, self-conscious focus on the potential racial impact of policy and program choices is needed to avoid these kinds of unintended consequences.

- **Data must be collected and carefully analyzed to inform efforts to reduce racial disparity in the detention system.** Data and data-analysis capabilities are key tools to map out strategies to reduce DMC. By measuring how youth of different races and ethnicities are treated at every stage of the process, we can figure out where there may be barriers to fair treatment. Data can also provide juvenile justice officials with objective evidence of DMC, thereby making it easier to raise the issue. Data identify how DMC looks and how it operates in a system, without resorting to anecdotes or emotionally charged debates over individual bias.

- **Leadership makes a difference.** Historically, the most successful sites in virtually all major juvenile justice reform effort were places where the top-level policymakers clearly and forcefully embraced change and challenged their colleagues and staff to join them in the transformation process. These experiences affirm the importance of "naming" the problem and of having the authority to enable everyone to confront unpleasant or risky situations.

- **Both individuals and agencies have a responsibility to address this issue.** Racial disparities in detention happen because both individual decision-makers and entire agencies make discretionary judgments and implement policies that treat

minority youth differently from similarly situated white youth. Oftentimes, individuals fail to take responsibility for these disparities because they believe that larger systemic or organizational changes are the only ones that can make a difference. Individual inertia, however, can only lead to agency passivity in the face of such a chronic and sensitive issue. Failure to address either individual or agency choices is likely to undermine efforts to make improvements at all levels of the system.

- **While we cannot control all the factors that lead to racial disparities, there are things we can control and change in the detention system.** No single juvenile detention reform strategy can alter the historical influences of racism in America and, in particular, their impact on the treatment of people of color by the justice system. Still, sites have shown that by focusing on things they can change within the detention system they can make a large difference in the outcomes for many youth of color and divert or expedite their exit from locked facilities in ways that makes a meaningful contribution to their lives.

Chapter 3

DEFINING THE PROBLEM: THE SCOPE AND CAUSES OF DMC

I learned very early on that when we got an African American youth, virtually everything from arrest summaries, to family history, to rap sheets, to psychiatric exams was skewed. If a middle-class white youth was sent to us as "dangerous," he was more likely actually to be so than an African American teenager given the same label. The white teenager was more likely to have been afforded competent legal counsel and appropriate psychiatric and psychological testing, tried in a variety of privately funded options, and dealt with more sensitively and individually at every stage of the juvenile justice processing. For him to be labeled "dangerous" he had to have done something very serious indeed.—Jerome G. Miller, *Search and Destroy: African-American Males in the Criminal Justice System (1996)*

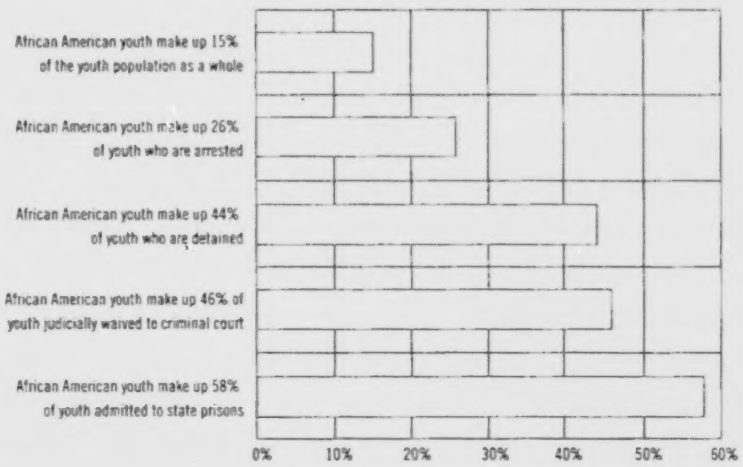
The preceding quote from Jerome G. Miller, who has run juvenile justice systems in Massachusetts, Illinois, and Pennsylvania, captures a reality that most juvenile justice workers know all too well. Until the past decade or so, however, the scale of overrepresentation had not been quantified on a state or national scale. But starting in 1989, a federal government mandate through the Juvenile Justice and Delinquency Prevention Act[1] required states to "address" disproportionate minority confinement to be eligible for certain federal juvenile justice funds. Despite serious limitations on what we know about Latino youth (in many systems, Latinos are defined as "white"), the JJDPA federal requirement has, at the very least, produced data that researchers can analyze to paint a national picture. In 1997–98, African American youth represented 15% of the total youth population, but 26% of the youth arrested, 31% of the youth referred to juvenile court, 44% of the youth detained, 46% of the youth judicially waived to criminal court, and 58% of the youth admitted to state prison *(see Figure 2)*.[2]

Both in the local and national contexts, research indicates that the racial disparities found in populations at juvenile training schools and state prisons are the end products of actions that occur at earlier points in the juvenile justice system—the decision to make the initial arrest, the decision to hold a youth in detention pending investigation, or the decision to petition a case. In a seminal meta-analysis

conducted by researchers Carl Pope and William Feyerherm, two-thirds of the studies of state and local juvenile justice systems they analyzed found that there was a "race effect" at some stage of the juvenile justice process, which resulted in poorer outcomes for youth of color.[3] Their research suggested that "the effects of race may be felt at various decision points, they may be direct or indirect, and they may accumulate as youth continue through the system." The starkness of these data necessitates asking how there can be so much disparity in a justice system that proposes to strive for fairness?

FIGURE 2

THE PROPORTION OF AFRICAN AMERICAN YOUTH INCREASES AT EVERY STAGE OF INVOLVEMENT IN THE JUSTICE SYSTEM


African American youth make up 15% of the youth population as a whole
African American youth make up 26% of youth who are arrested
African American youth make up 44% of youth who are detained
African American youth make up 46% of youth judicially waived to criminal court
African American youth make up 58% of youth admitted to state prisons
0%
10%
20%
30%
40%
50%
60%

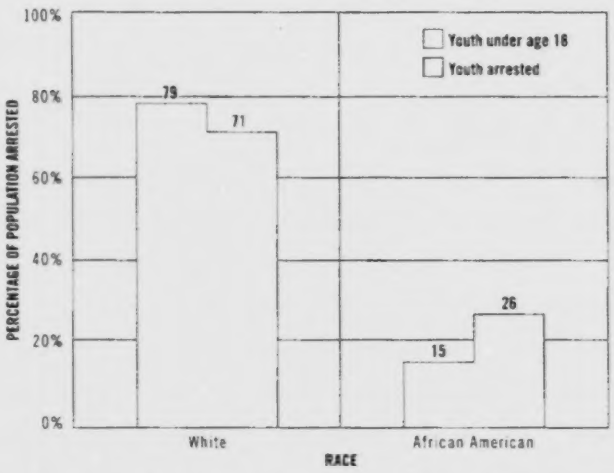
Source: Yamagata, Eileen Poe and Michael A. Jones. *And Justice for Some: Differential Treatment of Minority Youth in the Justice System.* Washington, DC: Building Blocks for Youth, April 2000.

Structural inequalities: The Social Context of Being a Youth of Color

Like most matters of race in the United States, DMC does not begin at the arrest stage but at the "starting gate"—the social contexts into which many youth of color are born. The causes of disproportionate minority confinement in significant part are attributable both to the social and economic conditions these youth face in this country and to racism and its vestiges such as segregation in housing, education, and employment *(see Figures 3 and 4)*. On every indicator of social well-being, whites are better off than African Americans, Hispanics, Asians, or other minorities. The chart below presents some key indicators of social and economic well-being. These numbers speak to the social conditions of the lives of many children of color. Given where many begin —more likely to die before their first birthday, less well educated, more likely to die a violent death, and more likely to come from families that are economically marginalized through high rates of unemployment—it is not surprising that they are also more likely to be arrested, detained, and placed outside their homes in residential facilities.[4]

FIGURE 3

AFRICAN AMERICAN JUVENILES ARE ARRESTED IN NUMBERS OUT OF PROPORTION TO THEIR REPRESENTATION IN THE GENERAL POPULATION



Source: Yamagata, Eileen Poe and Michael A. Jones. *And Justice for Some: Differential Treatment of Minority Youth in the Justice System.* Washington, DC: Building Blocks for Youth, April 2000.

FIGURE 4

SOCIAL AND ECONOMIC INDICATOR BY RACE[5]

Social Indicator	White	African American	Asian and Pacific Islander	Hispanic
Youth arrests—1998	71%	26%	1%	Not available
Youth arrest rates: per 100,000 youth—1998[6]	320	620	200	Not available
Children living below the poverty line—2000[7]	13.5%	33.1%	11.8%	30.3%
Families living below the poverty line—2000[8]	5.7%	22.7%	9.6%	21.7%
Female-headed household below the poverty line—2000[9]	19.8%	41.0%	23.0%	40.7%
High school graduates—1997[10]	87.7%	77.6%	85.3%	57%
Homicides per 100,000 residents—1997[11]	3.9	26.6	4.6 (1996)	12.4 (1996)
Adults under correctional supervision—1997[12]	2.0%	9%	Not available	Not available
Unemployment rates of persons ages 16 and older—1997[13]	4%	9%	Not available	8%
Infant mortality rates per 100,000 residents—1995[14]	6	14	5	6

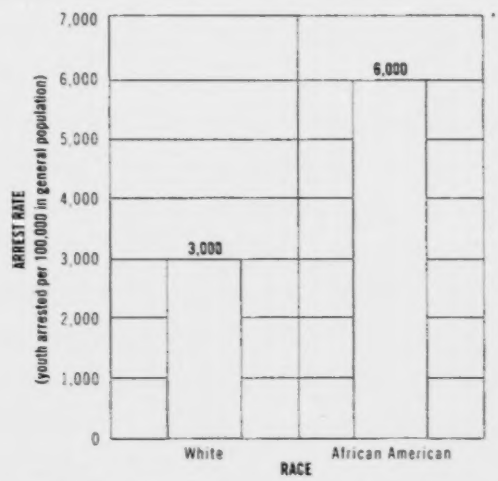
But do these contextual data sufficiently explain why, in so many places, the kids in the juvenile justice system, and especially its secure institutions, are overwhelmingly youth of color? Are white kids so much less likely to be delinquent? Dr. Delbert S. Elliot, Director of the Center for the Study and Prevention of Violence, has long studied differences in the (self-reported) risk behaviors of white and African American youth.[15] While official arrest statistics imply that no more than 4% of youth engage in criminal behavior in a given year,[16] Elliott's studies show that 25% of white youth and 36% of African American youth were involved in at least one "serious violent offense" (defined as aggravated assaults, robberies, and rapes that involved a weapon) by the time they were 17 years old—the peak age at which a youth is most likely to offend. Based on this, Elliott suggests that delinquent behavior is actually a relatively normal part of adolescence for a large segment of American youth across the racial divide. And while African American youth were a third more likely than

white youth to commit a violent offense by the time they were 17, these differences were not sufficient to explain the huge difference in arrest rates between white youth and African American youth[17] *(see Figure 5)*.

Significantly, as young people reach their 20s, African American youth who had trouble in their teens are more likely to continue to engage in violent behavior than are whites. It seems that whites "age out" of violent behavior more readily than African Americans. However, when African American young men either have a steady job or are living with a spouse or partner, they are just as likely as whites to refrain from crime. Other studies by Elliott show that gainful employment and establishing a relationship with a significant other correlate with youthful offenders of all races "maturing out" of delinquent behavior as they reach young adulthood, effectively wiping out differences in the rates at which whites and African Americans engage in violent behavior as young adults.[18]

FIGURE 5

AFRICAN AMERICAN YOUTH ARE ARRESTED AT TWICE THE RATE OF WHITE YOUTH



Sources: Yamagata, Eileen Poe and Michael A. Jones. *And Justice for Some: Differential Treatment of Minority Youth in the Justice System.* Washington, DC: Building Blocks for Youth, April 2000; *U.S. Population Estimates by Age, Sex, Race, and Hispanic Origin: 1980–1999.* Population Estimates Program, Population Divisions, U.S. Census Bureau, 2000.

Overall, research like Elliott's that contrasts youth arrests and youth behavior reveals at least four important lessons for understanding DMC and the larger social context of minority youths' lives:

1. "Serious" delinquent behavior is a part of growing up for one-quarter to one-third of all youth, bringing juvenile delinquency to the threshold of being normal, commonplace behavior;
2. African Americans, as teens, commit only slightly more violent crime, about the same amount of property crime, and *less* drug crime than white youth;
3. In no category can the marginal differences in white and African American behavior explain the huge disparity in arrest or incarceration rates; and

4. Perhaps most importantly, meaningful interventions, especially those that create opportunities for employment and positive social relationships, can alter the life paths of delinquent youth so they can live relatively crime-free lives.

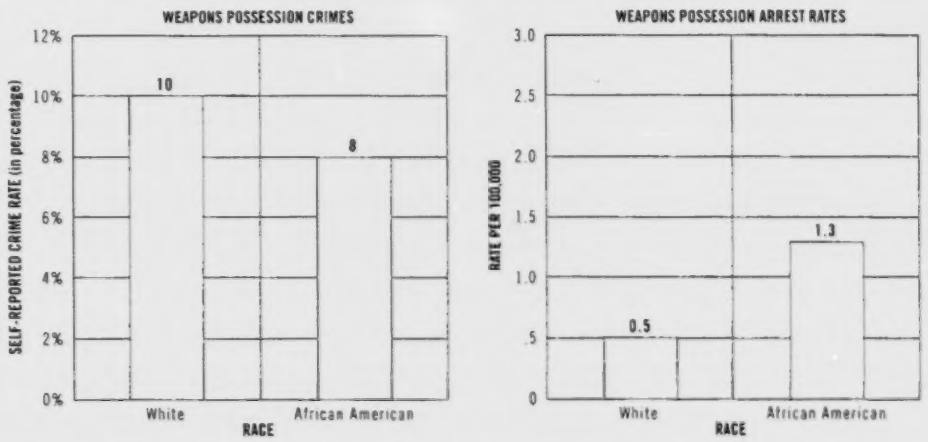
Justice System Disparities

What role do arrests and police practices play?

If the social context for youth of color puts them behind white youth at the "starting gate," they fall further behind if they come into contact with the justice system. In fact, many studies imply that the justice system creates new inequities. For example, despite survey data that show that youth of color are just as likely as white youth to admit to being in a fight, entering a building or home where they were not supposed to be, carrying and using a weapon, or stealing something worth less than $50,[19] they are arrested at rates many times higher than are whites *(see Figure 6)*. African American youth are arrested for drug crimes at double the rate of whites, even though both the most recent National Institute of Drug Abuse Survey of high school seniors and National Household Survey on Drug Abuse found substantially higher involvement in serious drug behavior for whites than for

FIGURE 6

WHITE YOUTH REPORT COMMITTING HIGHER LEVELS OF WEAPONS POSSESSION CRIMES, YET AFRICAN AMERICAN YOUTH ARE ARRESTED 2.5 TIMES THE RATE OF WHITES FOR WEAPONS OFFENSES

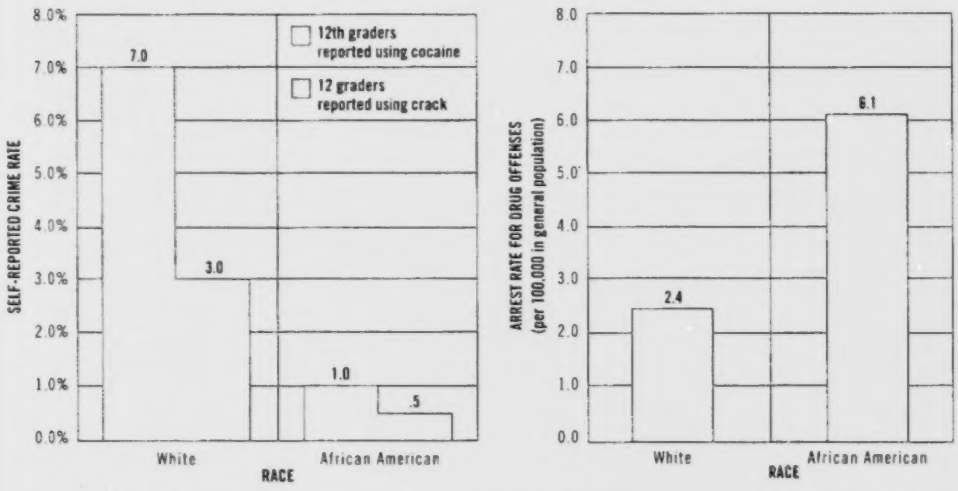


Sources for both graphs: Yamagata, Eileen Poe and Michael A. Jones. *And Justice for Some: Differential Treatment of Minority Youth in the Justice System.* Washington, DC: Building Blocks for Youth, April 2000; *U.S. Population Estimates by Age, Sex, Race, and Hispanic Origin: 1980–1999.* Population Estimates Program, Population Divisions, U.S. Census Bureau, 2000; Snyder, H. and M. Sickmund. *Juvenile Offenders and Victims: 1999 National Report.* Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, 1999.

African Americans *(see Figure 7)*. The NIDA survey found that white youth reported using heroin and cocaine at seven times the rate of African American youth. In the National Household Survey, white youth ages 12–17 reported selling drugs a third more frequently than African American youth.[20]

FIGURE 7

WHITE YOUTH REPORT USING DRUGS AT 6 TO 7 TIMES THE RATE OF AFRICAN AMERICANS, BUT AFRICAN AMERICAN YOUTH ARE ARRESTED AT HIGHER RATES THAN WHITES FOR DRUG CRIMES



Sources for both graphs: Yamagata, Eileen Poe and Michael A. Jones. *And Justice for Some: Differential Treatment of Minority Youth in the Justice System.* Washington, DC: Building Blocks for Youth, April 2000; *U.S. Population Estimates by Age, Sex, Race, and Hispanic Origin: 1980–1999.* Population Estimates Program, Population Divisions, U.S. Census Bureau, 2000; *Monitoring the Future Report, 1975–1999,* Volume I. Washington, DC: National Institute on Drug Abuse, 2000.

The Building Blocks for Youth study, *And Justice for Some,* lists a variety of potential reasons why African American youth are overrepresented in 26 out of 29 arrest categories demarcated by the FBI:

- Individual police practices and policies may make it more likely that minority youth are arrested (e.g., targeting patrols in low-income neighborhoods or in racial or ethnic minority neighborhoods).
- Where offenses happen greatly influences the potential for arrests (e.g., white youth use and sell drugs at higher rates than African American youth, but police arrest more youth of color probably because they can easily target street corners in cities but not homes in the suburbs).

- Differential reactions of victims to offenses committed by white and minority youth (e.g., white victims disproportionately perceive offenders to be minorities).
- Youth exhibit different behaviors (e.g., youth of color may commit certain crimes more frequently).
- System personnel show overt racial bias.

Enforcement of the nation's drug laws serves as a good case study to answer the question, "Are the police focusing their resources on the African American community?" As shown in Figure 7, white youth self-report using and selling drugs at higher rates than African American youth, but African American youth are arrested at nearly three times the rate of white youth. Data from Illinois youth drug crime arrests offer some interesting local insights on how enforcement practices can lead to disparity. While two-thirds of Illinois' youth population is white, nearly 60% of Illinois youth arrested for a drug crime are African American—in a state where African Americans make up only 15% of the youth population. This arrest disparity is partially the result of where law enforcement resources are in the state. While half of all Illinois youth live outside Cook County, 72% of all youth drug arrests occur in Cook County, where three-quarters of the state's African American youth live.

The racial disparities in Illinois' youth drug arrest statistics appear to be further exacerbated by state statutes. As recounted earlier, in the 1980s Illinois legislators changed the state's waiver laws, making it possible for prosecutors to charge 15- and 16-year-olds as adults for selling drugs within 1,000 feet of a school or public housing project. The law had a disproportionate effect in Cook County, where the bulk of the state's minority youth population lives and where the concentration of schools and housing projects is highest. Simply by virtue of living in a dense urban setting, Chicago's minority youth population is much more likely to be within 1,000 feet of a school or housing project than Illinois' suburban youth population, which is majority white. As a result, 92% of all youth automatically transferred to adult court in Illinois were from Cook County. Eighty-eight percent of the state's other counties did not exclude even one youth from juvenile court under these provisions. Within Cook County in 2000, 99% of the youth tried as adults for drug crimes were African American or Latino.[21]

What is the impact of indigent defense on youth of color?

> *The only thing my lawyer ever said to me was "hush" when I tried to tell the judge that we don't have a phone because the lawyer was putting me on Electronic Monitoring. My PO told me that the lawyer wants me to plead guilty and asked me what I was going to do. I want to get out of here so I am going to plead in the case.* — 17-year-old girl in detention in Texas[22]

As they enter the formal justice system in higher proportions, youth of color are more likely than white youth to rely on the overburdened indigent defense system. According to another study by Building Blocks for Youth, *Youth Crime/Adult Time*[23], white youth were twice as likely as African American youth to retain private counsel. Further, youth represented by private attorneys were less likely to be convicted and more likely to have their cases returned to juvenile court if they were originally prosecuted as adults. African American youth are more likely to be represented by indigent defenders "who are burdened by the high caseloads that public defenders carry."[24] According to the American Bar Association, juvenile defenders face distinct challenges: excessive caseloads; lack of resources for independent evaluations, expert witnesses, and investigations; lack of computers, telephones, files, and office space; lack of training; low salaries, and morale; and an inability to keep up with rapidly changing juvenile codes.[25]

How does access to resources and alternatives to detention affect racial disparities?

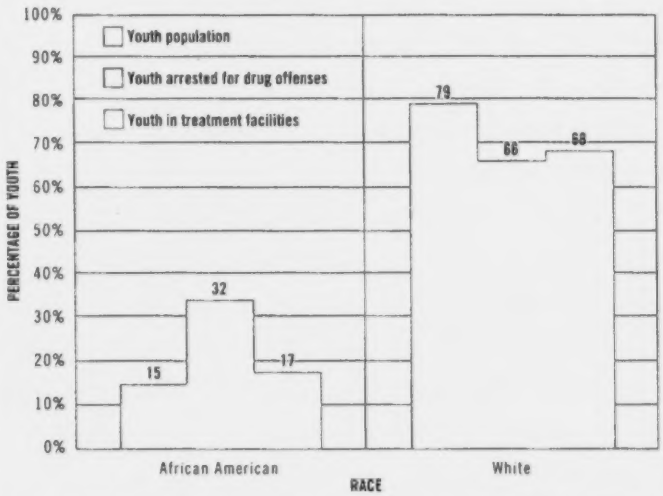
Juvenile defenders and probation officials have complained that youth of color do not have the family or community resources available to make them appropriate for alternatives to detention.[26] Moreover, many of these officials often believe that a minority youth's best chance to receive services may be in the detention system. As one chief probation officer puts it, "The courts incarcerate kids for help. Judges think that incarcerating them is the only way to get them treatment. The judges cannot order CPS [Child Protective Services] or mental health to do anything, but they can order me to do it."[27]

Again, the different paths white and African American youth take after the arrest stage when charged with drug crimes illustrates the impact of this resource gap. While approximately half of white youth arrested for drug crimes are formally

processed, three-quarters of drug cases involving African American youth result in formal processing.[28] Meanwhile, African Americans, who make up 33% of all youth drug arrests, represent only 17% of the youth admitted to state-funded drug treatment programs. White youth are generally represented in these programs in the proportion they are arrested *(see Figure 8)*.[29] Similarly, African American youth arrested for drug-related offenses are about one-third less likely to be diverted from court to drug treatment than their white counterparts *(see Figure 9)*.

FIGURE 8

AFRICAN AMERICAN YOUTH ARE OVERREPRESENTED IN DRUG ARRESTS BUT UNDERREPRESENTED IN DRUG TREATMENT



Sources: Yamagata, Eileen Poe and Michael A. Jones. *And Justice for Some: Differential Treatment of Minority Youth in the Justice System*. Washington, DC: Building Blocks for Youth, April 2000; *Treatment Episode Data Set (TEDS) 1998*. Office of Applied Studies, Department of Health and Human Services, Substance Abuse and Mental Health Services Administration.

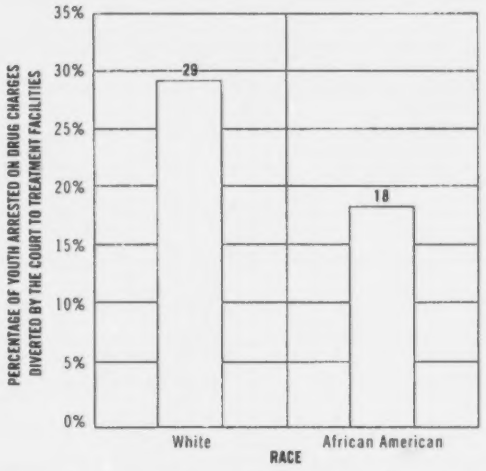
What role does racial bias among key decisionmakers play in DMC?

From the arrest stage to intake to adjudication, racial generalizations may play a role in the often highly subjective criteria different system officials bring to their decision-making. "Typically, judges look for red flags," says one juvenile probation officer. "Things that say a kid is going to re-offend ... or whether things are okay for the child, like whether or not they are doing well at home."[30] For many system

actors, their basis for evaluating the red flags comes from experience and may be a subjective judgment of what has worked in the past rather than explicit bias. Nevertheless, these red flags may or may not have a genuine relation to the actual risk a youth poses.

FIGURE 9

AFRICAN AMERICAN YOUTH ARRESTED FOR DRUG OFFENSES ARE A THIRD LESS LIKELY TO BE DIVERTED TO DRUG TREATMENT FACILITIES



Sources: Yamagata, Eileen Poe and Michael A. Jones. *And Justice for Some: Differential Treatment of Minority Youth in the Justice System.* Washington, DC: Building Blocks for Youth, April 2000; *U.S. Population Estimates by Age, Sex, Race, and Hispanic Origin: 1980–1999.* Population Estimates Program, Population Divisions, U.S. Census Bureau, 2000; *Treatment Episode Data Set (TEDS), 1998.* Office of Applied Studies, Department of Health and Human Services, Substance Abuse and Mental Health Services Administration.

In one relevant study, researchers George S. Bridges and Sara Steen tried to determine why African American youth, when they had a similar delinquency history and were charged with the same crimes, received harsher sentencing recommendations than white youth. Bridges and Steen studied 233 narrative reports written by juvenile probation officers, analyzing the written judgments probation officers made, and contrasting the rationale for their decisions with objective measures of risk. They found that probation officers are more likely to see the crimes of youth of color as caused by "internal forces" (e.g., personal failure, inadequate moral character, personality) and crimes by whites as caused by "external forces" (e.g., poor home life, lack of appropriate role models, environment).[31] Probation officers' interpretations of subjective factors like a youth's remorse or cooperativeness ultimately influenced the officer's assessments that the delinquent behavior of minority youth was the result of individual failings (unmitigated by larger social forces) for which state intervention was the only recourse.

Bridges and Steen point to a powerful example of the subjective decision making process when they describe the way one probation officer sees two 17-year-old boys (Ed and Lou), who both have no prior criminal history and are charged with first-degree robbery.

This robbery was very dangerous as Ed confronted the victim with a loaded shotgun. He pointed it at the victim and demanded money be placed in a paper bag. . . . There is an adult quality to this referral. In talking with Ed, what was evident was the relaxed and open way he discussed his lifestyle. There didn't seem to be any desire to change. There was no expression of remorse from the young man. There was no moral content to his comment.—About Ed, an African American youth, who robbed a gas station with two friends

Lou is the victim of a broken home. He is trying to be his own man, but . . . is seemingly easily misled and follows other delinquents against his better judgment. Lou is a tall emaciated little boy who is terrified by his present predicament. It appears that he is in need of drug/alcohol evaluation and treatment.—About Lou, a white youth, who robbed two motels at gunpoint

The bias of system personnel is predictably fed and amplified by the gap in communication between white decisionmakers and the youth of color they see. Unfamiliar body language, for example, can be easily interpreted in ways that negatively impact judgments about youth of color:

I'm expecting when they come to court they're going to show some measure of deference towards the court and not walk in with an attitude. How are we to feel that it's appropriate to release the kid who has absolutely no respect for the court, for the law enforcement, for the attorney, for the cop on the street, for our laws obviously.—A court official[32]

The frustration exhibited by court officials is mirrored by youth, who are also alienated by the communication gap and who may sense that the system has already made up its mind about them. In many instances, African American youth perceive that white youth are treated differently, increasing their lack of faith in the justice system:

Cops is more scared of African Americans. Because we just don't be caring, you know. The cops are everywhere. They've been messing with you so long, it's like, you know. . . . I don't care no more.—interview with African American youth[33]

Denying DMC?

Perhaps the greatest barrier to ending bias in the justice system is the very denial that it exists at all—denial that often permeates the system, from federal policy-

makers to local line staff. In 1999, when the very federal legislation that led states to collect data on DMC was being re-authorized, Sen. Orrin Hatch (R-UT), then chairman of the Senate Judiciary Committee, argued that justice system disparities simply did not exist:

> *Should they not be convicted when they sell drugs to our kids? Everybody knows that it happens. I haven't heard one shred of information that proves there is discrimination here. When you prove that, I will be right there, side by side with you.*[34]

A couple of months after Sen. Hatch made his statement, *The Salt Lake City Tribune,* reporting on the release of DMC data in Hatch's home state, wrote,

> *Minority youths in Utah are nine to 41 times more likely to be arrested than their Caucasian counterparts—and almost always receive harsher penalties, despite sentencing guidelines meant to ensure parity. . . . The study is more evidence that racial disparities exist in the state's justice system, a claim long held by Utah minorities.*[35]

Notes

[1]P.L. 93-415, 42 U.S.C. 5601 et seq.

[2]Jones and Poe-Yamagata, 2000.

[3]Pope, Carl E. and Feyerherm, William. *Minorities and the Juvenile Justice System: Research Summary.* Washington, DC: Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, 1995.

[4]See discussion, supra at 6–7.

[5]The data for this table has been collected from several sources. The data are collected differently by indicator and agency doing the data collection. For example, the FBI includes individuals of Hispanic origin as white in data collection. Very few agencies have reliable information on social and economic indicators for the Native American population. The information here is obviously not exhaustive but designed to give a snapshot of the social and economic conditions of the population.

[6]*Crime in the United States, 1997,* Table 43. Washington, DC: U.S. Government Printing Office, 1998.

[7]Dalaker, Joseph and Naifeh, Mary. *Poverty in the United States: 1997.* U.S. Bureau of the Census, Current Population Reports, Series P60-20, Washington, DC: U.S. Government Printing Office, 1998.

[8]Dalaker and Naifeh, 1998.

[9]Snyder, Howard. *Juvenile Arrests, 1998.* Washington, DC: Office of Juvenile Justice and Delinquency Prevention, 1999; *Crime in the United States, 1998.* Washington, DC: U.S. Department of Justice, Federal Bureau of Investigation, 1999.

[10]Day, Jennifer and Curry, Andrea. *Educational Attainment in the United States: March 1997.* U.S. Bureau of the Census, Current Population Reports: Population Characteristics, Series P20-505. Washington, DC: U.S. Government Printing Office, 1998.

[11]Maguire, Kathleen and Ann L. Pastore, eds. *Sourcebook of Criminal Justice Statistics 1998.* Washington, DC: Department of Justice, Bureau of Justice Statistics, 1999.

[12]*Sourcebook on Criminal Justice Statistics, 1997.* Table 6.2. Estimated number and percentage of adults under correctional supervision.

[13]*Changing America: Indicators of Social and Economic Well-Being by Race and Hispanic Origin: IV.* Washington, DC: Council of Economic Advisers for the President's Initiative on Race, September 1998.

[14]Infant mortality in the chart is expressed in infant deaths before a child's first birthday per 1,000 live births. *Changing America: Indicators of Social and Economic Well-Being by Race and Hispanic Origin: VI.* Washington, DC: Council of Economic Advisers for the President's Initiative on Race, September 1998.

[15]Elliott, Delbert S. "Serious Violent Offenders: Onset, Developmental Course, and Termination — The American Society of Criminology 1993 Presidential Address." *Criminology,* Volume 32, Number 1, 1994.

[16]About 2.1 million youth were arrested in 1998, out of an entire youth population of 52 million.

[17]Elliott, 1993.

[18]Hawkins et al., 2000.

[19]Ziedenberg, Jason. *Drugs and Disparity: An Analysis of Illinois' Practice of Automatically Trying Young Drug Offenders as Adults.* Washington, DC: Building Blocks for Youth Initiative, 2001.

[20]Ziedenberg, 2001.

[21]Ziedenberg, 2001.

[22]Juszkiewicz, Jolanta. *Youth Crime/Adult Time: Is Justice Served?* Washington, DC: Building Blocks for Youth, 2000.

[23]Juszkiewicz, 2000.

[24]Puritz, Patti. *A Call for Justice: An Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings.* Washington, DC: American Bar Association, 1995.

[25]Puritz, 1995, and interview with Alan Henry, Executive Director, Pre-trial Resource Center, December 29, 2000.

[26]Ibid.

[27]Jones and Poe-Yamagata, 2000.

[28]Of 145,084 youth (ages 0–17) admitted to drug treatment programs in 1998, 100,145 were white and 25,071 were African American. *Treatment Episode Data Set, 1998.* Washington, DC, Substance Abuse and Mental Health Service Administration, Office of Applied Studies, 1998.

[29]Bridges, George S. and Steen, Sara. "Racial Disparities in Official Assessments of Juvenile Offenders: Attributional Stereotypes as Mediating Mechanisms." *American Sociological Review,* Volume 63, 1998.

[30]Bridges and Steen, 1998.

[31]Bridges and Steen, 1998.

[32]Maxwell, *Reducing Disproportionate Minority Confinement Meeting of the JDAI Grantees,* May 14, 1998.

[33]Conley, Darlene J. "Adding Color to a African American and white Picture: Using Qualitative Data to Explain Racial Disproportionality in the Juvenile Justice System." *Journal of Research in Crime and Delinquency,* Volume 31, Number 2, May 1994.

[34]Schiraldi, Vincent. "The Bias of 'Color Blind' Juvenile Justice." *The Los Angles Times.* June 27, 1999.

[35]Rivera, Ray. "Utah Courts, Police Accused of Racial Bias." *The Salt Lake Tribune.* November 6, 1999.

Chapter 4

EFFORTS TO REDUCE RACIAL DISPARITIES IN DETENTION IN THE JDAI SITES

Strategies for Addressing DMC in Detention

In 1993, the Annie E. Casey Foundation held one of its semi-annual conferences for delegations from the five[1] original JDAI sites to strategize about ways to promote juvenile detention reform in their systems. At this particular conference, participants spent an afternoon discussing how DMC figured into larger detention reform strategies and what might be done to reduce racial disparities. The discussions that afternoon were difficult. Participants came with different understandings of the role race played in juvenile justice and in the larger American context. Site reports revealed that little had been done locally to figure out how disparities in detention might be addressed.

Foundation staff felt self-critical following these meetings for having been insufficiently helpful in providing site teams with starting points for the DMC work. For example, they acknowledged that the very detailed guide developed for the sites to prepare their reform plans was virtually silent on specific strategies that might be utilized to reduce racial disparities. As a consequence, a lengthy memo was written and distributed to the sites both to clarify Foundation thinking about DMC in detention and to suggest some DMC-specific strategies for consideration. In establishing objectives, the memo stated:

> *Clearly, JDAI will not result in the eradication of racism, poverty, and other powerful social forces that contribute to the current racial composition of detention centers. Detention reform, however, should seek to eliminate systemic bias so that the juvenile justice system does not exacerbate or contribute to the impact of those forces. ... Detention reform that effectively addresses over-representation of minorities in secure facilities should accomplish at least two measurable changes: (1) the rates at which minority youth are detained should decline and (2) the number of minority youth in detention (at a point in time and over time) should decline.*

To achieve these two objectives, the memo noted, reducing disparity should be central to the sites' detention reform efforts, informing both the design and implementation of the "core" population management strategies (already presented to the sites), as well as the development of DMC-specific strategies.

The "core" population management strategies (described in detail in *Pathways 3, 4, 5 and 9*) were:

1. Objective admissions screening instruments;
2. New or enhanced alternatives-to-detention programs;
3. Expedited case processing to reduce lengths of stay;
4. New policies and practices for probation violations, warrants, and "awaiting-placement" cases.

JDAI's designers believed that if sites developed objective, risk-based approaches to decide who would be admitted to detention, the large number of low- and medium-risk youth common in most detention center populations would be reduced. These youngsters would be served by community-based, nonsecure options. By moving cases through the courts more quickly, lengths of stay would be reduced, and program slots would turn over more quickly (therefore, allowing more youth to participate). Developing noncustodial sanctions for rule violators, new categories of warrants that did not mandate detention, and more efficient placement techniques would all work to reduce bed occupancy. If sites were successful in implementing these core strategies, the reasoning went, they should see reductions in the number of youth of color in their detention facilities simply as a function of overall decreases in utilization. (This was not a radical assumption, because the proportion of youth of color in these facilities was so high.)

In other places, detention reform had actually increased the percentage of minority youth in detention because the first to benefit from the reforms were white youth.

At the same time, however, Foundation staff warned that, in other places, detention reform had actually increased the percentage of minority youth in detention because the first to benefit from the reforms were white youth. It was necessary, therefore, for sites to go beyond the core strategies and to develop DMC-specific ones that would maximize the likelihood that racial disparities could be

reduced. Unfortunately, there proved to be a dearth of well-researched, practical innovations to recommend to the sites. Still, the memo identified 10 strategies that the sites might consider in their efforts to minimize DMC. This was not intended to be an exhaustive list. Rather, the memo's authors mainly hoped that these ideas would stimulate more creativity at the local level. The 10 strategies suggested were:

1. Formulate a vision and related policy goals;
2. Create structures (e.g., task forces) charged with sustaining a focus on DMC;
3. Collect data and conduct research to document where disparity occurs;
4. Build coalitions and alliances with communities and people of color;
5. Diversify the composition of the system's work force;
6. Diversify the service delivery system by contracting with organizations located in neighborhoods and managed by people of color;
7. Provide cultural and racial sensitivity training for staff at all levels of every agency of the system;
8. Minimize opportunities for discriminatory decisions by creating objective instruments and guidelines free of racial bias;
9. Improve defense representation to increase advocacy for youth of color;
10. Change the policies and practices of other systems (e.g., mental health, child welfare) to prevent "dumping" youth better served by those systems into secure detention.

Despite the potential menu of options juvenile detention reformers could pursue in their jurisdictions, stateholders involved in efforts to reduce disparity at the five JDAI sites expressed great frustration at the weight of the challenges facing them. One member of the Cook County effort noted, "When 90% of the kids in detention are kids of color, it was hard to know what to do other than to get the police out of the city, and send them to arrest kids in the suburbs."[2] Another member involved early in Sacramento County's efforts remarked, "We got too lost in talking about explaining the whole American experience around racism and poverty."[3]

Because many of the reasons for DMC are beyond the direct reach of the juvenile justice system, it is easy to "get lost" in the complex global and historical

issues that cause racial disparities in detention. Yet, the lessons learned in Cook, Sacramento, and Multnomah Counties, which are being applied directly in two promising new sites—Santa Cruz, California, and King County (Seattle), Washington—have taught the field how to begin to address the web of issues connected to DMC.

Cook County, Illinois

Census Context

In 2000, 32% of youth population were African American, 27% were Latino, and 34% were white.

Detention Context

In 2000, Cook County's detention population was 74.1% African American, 15.9% Latino, and 7.8% White (see also Figure 10). While the proportion of racial and ethnic minorities in detention did not change much since the start of the JDAI efforts, the number of minority youth in detention in Cook County dropped 31% between 1996 and 2000.

Background

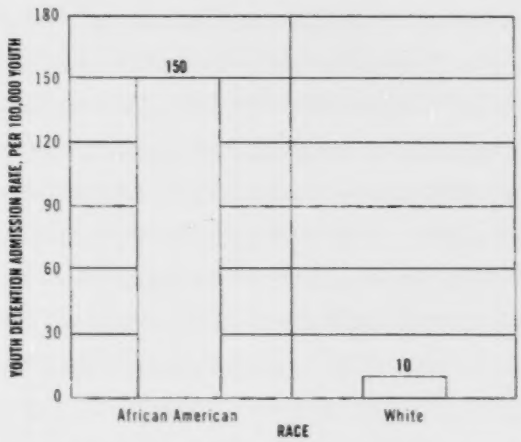
Cook County's strategy for addressing DMC began with their establishment of a "Disproportionate Representation Committee," a structure that was chaired by a presiding judge (for community relations) and included representatives of court services and probation, the public defender, juvenile detention and, at times, the police and state's attorney. The committee also included community-based groups like the Westside Association for Community Action and advocacy groups like Northwestern University Law School's Children and Family Justice Center. The committee developed specific goals related to DMC, including "to research reasons for overrepresentation of minorities and revise policies, procedures, practices, and programs as necessary."

However, from the beginning, this committee's limitations began to reveal themselves. For example, there was early disagreement among key players in Cook County about whether larger societal factors, rather than the conduct, policies, and practices of the system and its personnel, were responsible for DMC. Police and

probation officials believed that explicit DMC reduction goals could be best achieved by promoting a more effective detention system for all youth.[4] Also, from the outset, police officials were reluctant to turn over data to help analyze specific system decision points. The lack of arrest data made it impossible to consider significant alterations to police practices. Because the overwhelming majority of youth presented to detention by police were kids of color, this shortcoming meant that innovations to change the overall flow of cases were unlikely.

FIGURE 10

IN COOK COUNTY, AFRICAN AMERICANS ENTERED THE DETENTION SYSTEM AT 15 TIMES THE RATE OF WHITES IN 1998



Sources: *American FactFinder Quick Tables.* Race, Hispanic or Latino and Age: 2000 for Cook County. U.S. Census Bureau. *Juvenile Detention Alternatives Initial Evaluation Report (Draft).* Oakland, CA: National Council on Crime and Delinquency (December 2000). Note: These rates were calculated using youth population estimates from 2000, as countywide youth population data for each year was unavailable. Latinos were excluded due to varying definitions of ethnicity.

The state's attorney representative on the committee in 1995 also was not a vigorous supporter of separately addressing DMC. Without the state's attorney's active participation, the committee could not address disturbing data that revealed that prosecutors were bringing 98% of all arrests to court, but 60% of these cases were dropped before they came to trial,[5] needlessly detaining youth who the state would not even successfully adjudicate. In 1996, a new state's attorney was elected who was more supportive of JDAI efforts and who did help contribute to policies that reduced the size of the detention population.

When it became clear that key participants had significant disagreements regarding the very definition of the problem, the committee changed its focus from addressing "overrepresentation" to building "diversity" and creating a more effective system "for all kids." As Mike Rohan, Director of Juvenile Probation and Court Services for the Circuit Court of Cook County put it,

We made it our goal to reduce the number of kids detained and to help kids who are detained to have better outcomes. Reducing disparity was a larger, implicit goal of all our work. I think what you want to have is less kids in detention. Reducing disparity was never an explicit goal, because it was an overarching goal. Almost all the kids in our programs are children of color.[6]

Strategies to Reduce DMC

As a practical strategy, acceptable to virtually everyone, the DMC committee decided to use cultural diversity and communication training as a way to build sensitivity in the systems' agencies and staff. With the help of an external consultant provided by the Casey Foundation,[7] Cook County developed a "train-the-trainer" model to create organizational capacity for staff training in each agency. This model focused on racial stereotypes, bias in decision-making, and the impact of the actors' roles in the decision-making process. Sixty people from the six collaborating offices were part of the trainings. Judge Sophia H. Hall, who chaired the committee, reported the key benefits of the effort and the specific benefit of the model:

The benefits of our offices collaborating to develop this cultural diversity management training are the things we learn from each other about how we are perceived and the help we can give to each other through the dynamic of our interaction. This dynamic sharpens communication within the training and quells the finger pointing and defensiveness about our conduct and decision-making.[8]

Rohan saw the trainings as a very important first step in "fostering a positive culture and more appropriate values." Since 1997, six offices—the police department, the judiciary, the public defender, the juvenile detention center, the state's attorney, and juvenile probation and court services—have trained staff.

Consistent with the notion that reducing racial disparities was, in effect, an implicit goal of detention reform in a system with overwhelmingly minority detainees, Cook County's JDAI efforts focused primarily on core detention reforms to reduce the number of kids of color in detention. Members of the JDAI steering committee developed a new risk assessment tool for detention intake, bringing considerations about race into the new point-scale system. For example, factors

that previously increased the points for minority youth—such as whether a youth had two parents versus another guardian who could hold the youth accountable—were re-weighted. The designers of this tool sought both to improve the outcomes for all youth and to be more sensitive to the context of minority youth's lives, by reducing the points allocated for criteria more commonly associated with minority arrestees (like prior police contacts and whether a youth came from a single-parent household). As a result of this kind of DMC-sensitive thinking, prior arrests were not counted in the scoring of the detention-screening instrument, only prior referrals to court.

Cook County tried to address the gap in the quality of defense that minority youth received through the indigent defense system. In July 1996, the Public Defender's Office established the Detention Response Unit, consisting of two paralegals who interviewed detained youth prior to their custody hearing. The paralegals verified community ties and contacted families to stress the importance of their presence at the custody hearing. These paralegals also provided the youth with important information about what would happen at the hearing, what to expect, and how to conduct themselves. The results of the interviews with the children, including discrepancies about the police version of the instant offense, or risk assessment factors, were relayed to the public defender conducting hearings that day. The paralegals also suggested alternative to detention programs that the lawyers might recommend to the court. By adding a larger social narrative to the court process—one that resource-poor public defenders could not often marshal—the Detention Response Unit aimed to provide judges with a better understanding of each youth's circumstances and a greater array of community-based alternatives where youth could be supervised.

Cook County's most distinguishing detention reform strategy that was informed by the need to improve minority youth outcomes was its development of a continuum of detention alternatives. These alternatives had a substantial impact on reducing the number of admissions and average daily population in secure detention. As important perhaps, they ushered in a new era of closer relationships between the juvenile justice system and communities of color. Prior to JDAI, contracts with minority-run community-based organizations for services to delinquent

youth were rare. Now they are commonplace, and the system's service delivery capacities have been greatly expanded and made more culturally competent.

Perhaps the most innovative of the six programs developed were the Evening Reporting Centers (ERC) *(see Figure 11)*. The ERCs are operated by nonprofit community-based organizations located in high-referral neighborhoods for youth of color. The length of participation in the program ranges from five to 21 days. It is intended as an interim measure to reduce the risk of re-offending through intense, individualized supervision during the "high-crime" hours (from 3:00 p.m. to 9:00 p.m.) on weekdays and on Saturday while delinquency proceedings are pending. Other goals of the ERCs are to ensure appearance in court while allowing youths to continue their schooling and remain at home.

The first ERC began with a capacity for 20 and was quickly replicated to the current seven centers serving 165 youth who would otherwise be detained. (In September 2001, Cook County established a gender-responsive ERC for girls.) A recent evaluation of the Cook County initiative concluded that 60% of youth admitted to the ERCs in 1997 would have been admitted to secure detention if the programs were not in place.[9]

The ERCs were a direct product of the county's JDAI work, influenced by increased thought about how to create programs that meet the cultural needs of minority youth. Ernie Jenkins, Executive Director of the Westside Association for Community Action, the community group that implemented the first ERC, said that JDAI brought together the kind of people that would make these programs work. Because of the trainings, the courts saw the particular value these groups brought to detention reform. Jenkins described the transformation in these relationships:

FIGURE 11

COOK COUNTY ERCs

Staff: Operated by nonprofit, community-based service organizations that hire and train staff primarily from the neighborhood; centers maintain a ratio of one staff to five youth.

Program elements:

1. Six hours of daily supervision, tutoring, counseling, and recreation.
2. Curfew checks.
3. Evening meals and transportation home.
4. Youths referred for additional recreational, educational, and vocational opportunities in the community.
5. Work with families.
6. Collateral checks on school attendance and school work.
7. Program supervision enhanced by linking participants to home confinement program and/or electronic monitoring.

Eligibility criteria: Secure-detention-eligible youths; chronic violation of probation.

Length of stay in program: 21–30 days.

Cost: Approximately $33 per youth per day.

Successful completion rate: 90% of youth make their court hearings and remain arrest-free while in the program.

The coalition helped us to see the whole child's needs, and our participation in the coalition changed other agencies' practices, too. The single most important thing was there was an advisory board, which invited groups like us in to make us part of the process. For the first time, we went over to the police station to get to know the beat officer and built some good relationships. Before, probation would call us and check in with the kids. Now, they have permanently assigned staff to our center, meaning there is no delay in the delivery of services or program. The good working relationship we built with probation has kept the program running smoothly.[10]

Rohan feels that the most important achievement of the DMC committee was the fruit born by their initial outreach:

We approached religious groups and community groups that were with us from the outset. . . . When we applied for and received federal grants to fund specific diversion programs coming out of our JDAI work, we could say to a funder, "we are working with a network of grassroots community groups to make these programs work for these kids."[11]

Analysis of Success and Challenges

Cook County's cultural sensitivity trainings seem to have contributed to sparking a series of actions that resulted in a more-informed development of core detention strategies, such as alternative programs like ERCs and the revisions of the risk assessment instrument (RAI). Important programmatic developments might not have happened had system officials not developed new coalitions with community groups and service providers that could diversify the kinds of services available to detained youth. As a result of these broader detention reform strategies, influenced by DMC discussions, Cook County succeeded in reducing its average daily detention population from 694 in 1996 to 478 in 2000 *(Figure 12)*. In a jurisdiction where more than 90% of the youth admitted and held in detention are youth of color, a 31% drop in the detention population benefited primarily minority youth.

But is making the juvenile detention system more effective overall the same as addressing overrepresentation? Reducing racial disparities was seen by Cook County as an implicit goal of detention reform in part, it seems, because the participants could not collectively agree on a definition of the problem. Cook

County's DMC efforts, while restricted by these disagreements, nevertheless seem to have had a significant impact on detention reform in general and on community program development in particular. Today, there are far fewer youth of color in detention in Cook County. However, the proportion of youth of color in detention is about the same as it was before JDAI began. Overall then, Cook County stands out as a detention reform success that improved outcomes for youth of color. It is unclear, however, whether it could have been even more successful had it focused more explicitly on specific DMC reduction strategies.

FIGURE 12:

COOK COUNTY'S AVERAGE DAILY POPULATION DECREASED BY 31%, 1996–2000

Year	Average Daily Population
1996	694
1999	554
2000	478

Source: Cook County Probation Department, 2001.

Sacramento County, California

Census Context

In 2000, Whites made up 46% of the youth population; Latinos, 22%; African Americans, 12%; and Asians, 12%.

Detention Context

In 1997, 34% of the youth admitted to detention were African American, 35% were White, 19% were Latino, and 12% were Asian *(see also Figure 13)*.

Background

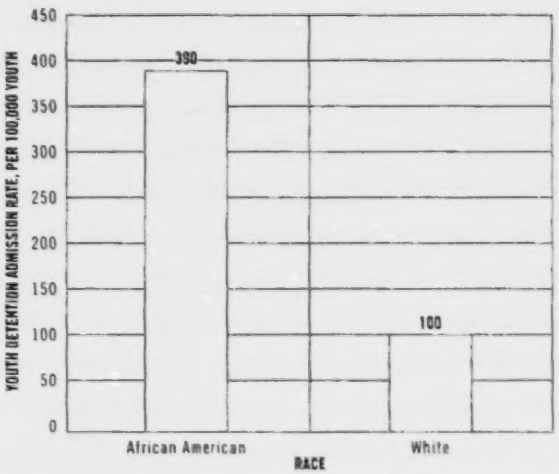
The primary vehicle for addressing racial disparities in Sacramento County was the "Task Force on Fairness," which was set up by the larger JDAI collaborative. It was led by the presiding juvenile court judge and involved probation, the district attorney, the public defender, health and human services and, early on, the police department. Like Cook County, the Sacramento effort worked hard from the beginning to get a wide variety of community-based organizations around the table, including groups from the county's large Asian, Pacific Islander, and Latino communities. The goals of Sacramento's task force were to research and examine

the issues relating to racial disparities in detention, to build new coalitions and alliances with groups to broaden the perspective of the system to deal with DMC, and to provide decisionmakers with training and tools to address overrepresentation.

To accomplish the goal of examining and documenting the causes of DMC in the system, task force researchers developed a "cultural audit" survey to be filled out by judges, probation officers, deputy sheriffs, assistant district attorneys, and public defenders. The purpose of the confidential survey was to assess the system's overall understanding of and sensitivities to racial, ethnic, and cultural differences in the context of daily practice. More than 1,000 surveys were mailed. But the audits, which were sent to people with no introduction by their department head and, therefore, with no explanation of why these questions were being asked, antagonized many people and resulted in a disappointing response rate. About 300 surveys were returned.

FIGURE 13

IN SACRAMENTO COUNTY, AFRICAN AMERICANS ENTERED THE DETENTION SYSTEM AT 4 TIMES THE RATE OF WHITES IN 1998



Sources: *American FactFinder Quick Tables*. Race, Hispanic or Latino and Age: 2000 for Sacramento. U.S. Census Bureau. *Juvenile Detention Alternatives Initial Evaluation Report (Draft)*. Oakland, CA: National Council on Crime and Delinquency (December 2000). Note: These rates were calculated using youth population estimates from 2000, as countywide youth population data for each ye ' was unavailable. Latinos were excluded due to varying definitions between detention and census data.

Survey analysis revealed that most of the key decisionmakers and front-line staff were older and white, that there was an "us versus them" mentality between departments, that respondents had little understanding of the systemic problem of DMC, and that many of these decisionmakers were not "culturally competent" to deal with the diverse youth of Sacramento.[12] "By cultural competency, we mean, for example, that there were complaints that Asian youth were disrespectful, looking down when they were before the courts," says Gerald E. Root, the early project manager for the initiative. "But for Asians, a person looking down is a sign of submission to authority, not disrespect." The information gathered in the cultural audit provided the basis for cultural diversity trainings.[13]

As the audit results were compiled and the task force prepared its research agenda, Sacramento's attempts to keep the police department part of the task force were affected by external events. Local controversy around police practices, particularly among African Americans, had led to public protests by the National Association for the Advancement of Colored People. At the same time, the county sheriff's cooperation with another research effort around race in the criminal justice system was used in a lawsuit against the department. As such, law enforcement was not disposed to participate in any more research efforts around race, and the police department left the task force. While the probation department remained part of the effort, it became defensive about the lack of participation by law enforcement, complaining that it would be unfairly singled out in the study of the problem. "Our biggest barrier was resistance from law enforcement and that resistance pointed us toward looking at prevention," says Root. "We were philosophically driven upstream." That is, because the task force could not address the racial disparities that began at the arrest stage, they focused instead on factors that might reduce the chances that youth would even be arrested. The focus became primary delinquency prevention, a worthwhile goal no doubt, but not one likely to quickly reduce the numbers of youth of color in the juvenile hall.

Strategies to Reduce DMC

Without the assistance of law enforcement, Sacramento's researchers assessed what was happening before youth were arrested that might be causing DMC. New data, drawn from the results of a survey sent to 679 youth in juvenile hall, community schools, and public schools illuminated the larger social context of DMC:

> *Factors that correlate to a high risk of entering the juvenile justice system include poor attitude regarding school, use of tobacco and other drugs, and a lack of involvement in positive, extracurricular activities for non-minority as well as minority students. ... Minority juveniles are generally from lower economic backgrounds ... and do not believe that their teachers push them to be the best that they can be.*[14]

The data collected by the task force was shared with another community-based initiative that had administered the same survey to over 2,000 students in public

schools and then used to inform a series of community forums. Participants began discussing how to set up services and partnerships to reduce drug use, child abuse, and even smoking. While a new coalition between juvenile justice and other agencies could have increased both the delivery and diversity of services available to prevent youth from being dumped into the detention system, no specific juvenile justice policy changes emerged from moving this agenda "upstream." Interestingly, those efforts were effective, however, in mobilizing parents' participation in school and community-based asset mapping and prevention program development in the county.[15]

An additional spin-off from the work of the Task Force on Fairness was the establishment of an annual conference on multicultural family violence prevention. It is designed to bring together the justice, health and human service providers, and the minority communities to improve communication and understanding and to provide awareness of and access to support resources. Five annual two-day conferences have been held in Sacramento, drawing approximately 450 people each to discuss the conflicts among new immigrants' and other minorities' cultural traditions, social norms, and the legal processes in society.

In a more direct effort to affect juvenile detention operations, the task force also held a series of cultural diversity trainings for staff across departments, including probation. While the two-day trainings began as "gripe sessions," Root says they succeeded in getting different staff to understand the larger issue of DMC and promoted information sharing within the different departments. "People finally understood this is why they made me fill out that form," Root says. "The trainings also had the effect of keeping DMC on the front burner and made people think about it when addressing demographic change within their departments, when examining hiring decisions, and decisionmaking tools."

By the end of 1996, 111 representatives from juvenile court, probation, public defender, sheriff, and district attorney offices had participated in cultural diversity training. A survey of the participants showed that 90% of men and 99% of women agreed or strongly agreed that the training increased their knowledge of intercultural communication, and 85% of men and 89% of women agreed or strongly agreed that the trainings improved their job skills. There was strong support for the training across ethnic and racial groups.

Sacramento County also used grant funds to hire a case advocate in the public defender's office. This person's responsibilities included providing new or enhanced information about detained delinquents and developing release or dispositional plans to facilitate their release from secure custody. As in other jurisdictions, the theory here was that enhanced advocacy would benefit youth of color, who were almost exclusively represented by overburdened public defenders. This experiment, however, proved unsuccessful. The case advocate had a difficult time identifying youth for whom her interventions might make a difference, especially because the probation department was considered the most authoritative source of such information and options in this court system. When the impact of the case advocate was assessed, the JDAI collaborative found that it had not made a difference in reducing detention utilization, and funding was terminated.

While Sacramento engaged in several strategies aimed specifically at reducing DMC (e.g., forming a task force, conducting research, participating in new coalitions, and enhancing defense advocacy), it was the core JDAI strategies that were used to impact the size of the detention population and that may have impacted disparity in the detention system. Sacramento's most innovative efforts were aimed at reducing lengths of stay by speeding the resolution of cases. The county established specific "fast tracks" for certain cases, and it staffed an expeditor position that sought to divert youth from the detention facility as quickly as possible. Sacramento County also developed an RAI to guide admission decisions, but when it was reviewed and contrasted with previous practices, "we found no difference between what we were doing and what was originally practiced by probation officers and intake people. The only impact it had on the system was validating it."[16] Similarly, few new programmatic alliances were established as a result of JDAI. In fact, most new or enhanced detention alternative programs established during these years were probation operated.

Analysis of Success and Challenges

An analysis by the National Council on Crime and Delinquency (NCCD) has shown that, between 1994 and 1998, the proportion and number of African American admissions to detention dropped slightly, from 37% of all admissions to

34%, while Latino admissions remained about the same (during a time when both groups' proportions in the youth population increased).[17] More importantly, research prepared for the Task Force by NCCD showed that, although there were disparities for African Americans and Latinos at the arrest stage, the proportion of youth of color at various other stages in the system did not change. In other words, while Sacramento could not show that their detention system reduced the disparities seen at arrest, they were not making the disparities any worse either. This information, combined with the resistance to internal system changes, altered the focus of the Sacramento task force to research on broader factors contributing to DMC:

> *While the language of the JJDP Act specifically refers to juveniles who are "detained or confined," minority over-representation is often a product of actions that occur at earlier points in the juvenile justice system. Due to the absence of clarity on the causal factors for disproportionate minority confinement in the county, and the desire to provide appropriate intervention strategies, the Criminal Justice Cabinet directed the interagency Task Force on Fairness (now renamed Disproportionate Minority Confinement Research Committee) to conduct comprehensive research that examines current scientific literature and data, and identifies causal variables in Sacramento County.*[18]

Sacramento's research agenda took it in a different direction, "upstream." The task force focused on what factors in the communities were causing or contributing to disparate rates of delinquency across races. With those results, it joined a larger effort to involve community groups in designing new policies and programs to prevent delinquency (and, therefore, to reduce DMC). These attempts to develop a neighborhood response to DMC were well received by community groups and schools, but it is hard to tell to whether justice system stakeholders really liked this broader prevention focus because it "got them off the hook."[19] This strategy might even have eventually expanded and diversified the delinquency prevention service delivery system. For now, however, little evidence can be found that these efforts have altered disparities in the flow of cases into the juvenile justice system.

Sacramento's relatively successful cultural diversity training for system decision-makers and front-line staff seems to have helped put DMC on the front burner and gave juvenile justice system staff a chance to critically re-evaluate their practices

with an eye toward cultural bias. Combined with the focus on DMC created by the Task Force on Fairness, its research efforts, and increased interaction with new community partners, the county succeeded at least in reducing or eliminating disparities at case-processing points following arrest. This is not an insignificant accomplishment given that prior to JDAI Sacramento's juvenile justice system added to disproportionality at every decision point, resulting ultimately in higher percentages of African American youth entering into long-term incarceration in the California Youth Authority. As in some other sites, however, tangible and meaningful reductions in disparity at the point of arrest, and therefore at intake and detention, remains an elusive goal in Sacramento.

One key lesson to be learned from Sacramento's approach is that its efforts to reduce DMC were affected by a combination of external events, like the controversy swirling around the police and the fact that their research drove them toward a "macro systemwide examination"[20] rather than the detention system. A survey of the DMC committee suggests that Task Force members may have tried to do too much at one time, that the portrayal of DMC might have made people too defensive to remain part of the effort, and that more effort should have been made to address law enforcement's concerns. "When the police backed out, eventually that would lead to the sheriff and probation backing out, and then the project was no longer a systemic examination but necessarily focused on the remaining system players," says Root.

Changes in leadership were also very hard barriers to overcome. When, in short order, a new chief probation officer was selected, a new sheriff elected, and a new presiding judge seated, agency investment and support for the initiative suffered. When passion for detention reform in general decreased, it became even harder to sustain an intense focus on reducing racial disparities.

John Rhoads, the former deputy chief probation officer in Sacramento during its most innovative JDAI period, says that the county's key error was that they "did not spend enough time focusing on taking responsibility for things that they had direct control over." The lessons from Sacramento were subsequently brought to bear in Rhoads' attempts to address the same issues in Santa Cruz, California.

Santa Cruz, California

Census Context

In 1997, 31% of youth ages 10–17 were Latino, 63% were white, and 1.4% were African American.

Detention Context

In 1997, Latino youth represented 64% of the youth detained; 28% were white, and 7% were African American.

Background

The challenges faced by Sacramento's DMC Task Force on Fairness were front and center in John Rhoads' mind when he took over the Santa Cruz County Probation Department in 1997. While initiating a task force partnered with the county's Latino Strategic Planning Collaborative and Latino Affairs Commission, the probation department also elected to engage in a departmental process to address DMC. In a community where Latinos made up one-third of the youth population but two-thirds of the detention population, the probation department knew which key demographic group it would need to focus on to reduce racial disparities in detention.

In this effort, the probation department drew on the experience of national experts (including organizations like the Youth Law Center and the Southwest Key Program) to help it explore and explain the complexities of DMC. A core working group, which involved people from across the probation department, was soon developed. The working group formulated a "Disproportionate Minority Confinement Checklist"—a work plan of things they thought needed to be done to address disparity in detention *(see Figure 14)*.

As in some other jurisdictions, the probation department conducted research and found that minority youth brought to juvenile hall by law enforcement had more serious offense histories and more risk factors (like single-parent homes, low household incomes) than white youth. To solve some of these problems, however, one would have to improve the social and economic conditions of their communities. "We knew that we had little control over these aspects of their lives," says Judith Cox, Assistant Chief of Probation.

Instead, the probation department focused on examining its own policies, procedures, and programs to identify things over which it did have control. By conducting internal audits and collecting data at each decision-making point, they mapped out where the system did not work for youth of color:

> *When we looked for clients who experience barriers to service or lack of access, we found them. When we looked for points where subjective rather than objective decisions were made, we found them. When we looked for examples of cultural insensitivity, we found them. When we looked for unnecessary delays, which contributed to longer length of stays in detention, we found them.*—Judith A. Cox[21]

Strategies to Reduce DMC

The department began by ensuring that everyone made the reduction of DMC a key organizational objective. Diversity became the catchword everywhere, from personnel practices, including recruitment, hiring, and training, to examining all practices in the search for bias. Then, data were gathered on a quarterly basis to count who was being arrested, booked, detained, and placed in programs to measure exactly where overrepresentation occurred in their processes.

Some of the most important changes to affect DMC were rooted in the core detention reform strategies. When Santa Cruz began weekend intake procedures, for example, many more minimum- and medium-risk youth were released in more timely fashion. While this reform impacted white and Latino youth at the same rate, it had the effect of immediately reducing the number of Latino youth detained and helped to bring down the average daily population of the detention center.

Santa Cruz found that the lack of Spanish-speaking staff at the intake and case management stages made it difficult to move youth back to their families. In response, the department made it a goal to have at least as many Latino or Spanish-speaking staff as the proportion of such youth in the detention center. Now, when Latino youth are brought to detention, their families receive a call from an intake officer who speaks Spanish: The opportunity to return a youth home is not hampered by the inability of probation staff to speak to the parents. "Recognizing that 46% of our caseload was Latino, we made it a goal to have 42%, or thereabouts, Latino staff," says Cox. Thirty-three percent of Santa Cruz's officers are now bicultural.

A survey of the department's services showed that one of its diversion programs was not being selected by Latino youth, who were instead opting for traditional court processing, including detention. The department looked for barriers and determined that the diversion program was not culturally appropriate, then developed an additional program that was better suited to the needs of Latino youth. Getting diversion right for the Latino population was a key piece of the detention reform puzzle. Santa Cruz determined that, if it did not address barriers to diversion, Latino youth would be propelled deeper into the system, frequently with a diversion failure on their record that was more due to the department's inability to provide culturally appropriate interventions than youths' true risk of re-offending. Since beginning their DMC effort, Santa Cruz probation officials have succeeded in more than doubling the number of youth diverted to new programs, many of which were designed to meet specific regional needs across the county and specially designed to meet the needs of Latino youth.

Now, when Latino youth are brought to detention, their families receive a call from an intake officer who speaks Spanish.

Another key problem was that Latino youth were underrepresented in the department's (otherwise effective) detention alternatives programs. The department knew that parental involvement and supervision was a key to successful home detention programs, but language differences, transportation problems, confusion about court processes and their court-related responsibilities all made it difficult for Latino parents to participate effectively. By adding a community-based agency as a partner in the department's home supervision and electronic monitoring programs, Santa Cruz was able to remove some of these barriers and help parents understand their roles and the court's expectations.

Santa Cruz took also examined how its post-disposition youth were fairing. The department found that Latino boys were failing to complete a court-ordered residential treatment program and, consequently, were being returned to detention as probation violators. By working with the local community provider, Santa Cruz was able to were able to improve success rates in the treatment program by ensuring it had bilingual staff that reflected the demographics of the county and the youth served. The department also looked to spread the continuum of services available for youth to distant parts of the county, where previously police and probation had limited options besides detention.

Analysis of Success and Challenges

As the checklist shows, the Santa Cruz probation department working group on DMC completed 19 of 23 goals from its original work plan; the rest are "in progress and under development." Santa Cruz succeeded in setting up an internal structure for pressing ahead with DMC goals, set a clear list of goals, collected data to figure out where disparity occurred within the probation system, diversified the workforce, and examined every tool and program they ran or were involved with for cultural bias. Santa Cruz is still working to ensure that they have clear and objective criteria for removing kids from intensive caseloads and are developing administrative sanctioning alternatives for youth who violate probation. As they follow their own internal checklist, probation personnel continue to be part of larger effort to reduce disparity through the task force. The department's work with

FIGURE 14

SANTA CRUZ PROBATION DEPARTMENT DMC CHECKLIST.
SANTA CRUZ COUNTY PROBATION

Disproportionate Minority Confinement Work Plan Checklist	Yes	No	In Progress or Under Development
Stated administrative value	X		
Working group charged with outcomes	X		
Cultural competency coordinator	X		
Cultural competency plan	X		
Regular cultural competency training	X		
Staff reflects bilingual, bicultural levels of client base	X		
Key positions have bilingual staff	X		X
Key decision points mapped	X		
Data available for each decision point	X		X
Quarterly review of decision point data (trends)	X		
Customer surveys identify service barriers			X
Parental involvement at all levels			X
Detention alternatives with community partners and more than one level of alternative	X		
Tracking outcomes of alternatives by ethnicity	X		
Risk-based detention criteria without racial bias	X		
Stakeholders involved in development of risk assessment instrument	X		
Efficient court and placement system with short length of stay in detention—Measure length of stay by ethnicity	X		
Clear criteria for assignment to intensive caseloads	X		
Clear criteria for removal from intensive caseloads			X
Administrative sanctions for probation violations			X
Sufficient diversion options	X		
Extensive graduated continuum of services with wrap around services and community partners	X		
Culturally competent residential programs	X		X

Source: Santa Cruz Probation Department, 2000.

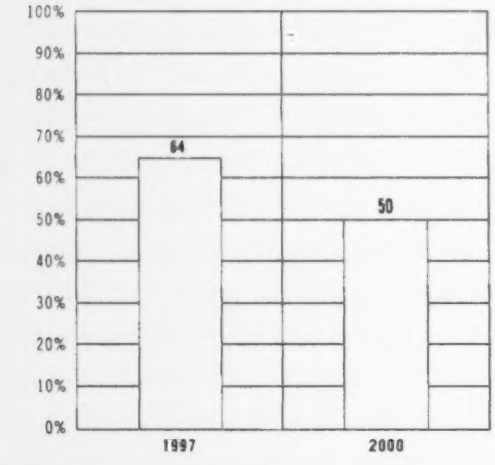
the county's Latino Strategic Planning Collaborative and Latino Affairs Commission has already helped it build new community partnerships to set up the new diversion programs.

What impact did these changes have on racial disparities in the detention system? In 1997, 64% of the youth in Santa Cruz's juvenile hall on any given day were Latino. By 1999, the Latino representation in the juvenile hall population dropped to 53%, and in 2000, it dropped to 50%—a 22% decline in 2.5 years *(Figure 15)*. Over roughly the same time span, the detention rate for Latinos was reduced by 43%, while the rate for white youth rose slightly *(see Figure 16)*. During that same time, the juvenile detention center average daily population dropped from 49 to 37—about a 25% reduction. These significant changes in the proportion of Latinos held in detention constitute an important success for Santa Cruz and, if they hold over time, provide lessons for other communities.

The Santa Cruz Probation Department's efforts to reduce racial disparities in juvenile detention make it abundantly clear that single agencies can make a measurable impact on the rates at which youth of color are detained. Unlike other JDAI sites, which all tried inter-agency approaches to reduce DMC, the Santa Cruz Probation Department focused on itself and changed the policies, programs, and practices over which it had direct control. Its top-echelon leaders made racial disparities in detention their priority and used both their formal and informal authority to focus agency staff on strategies to reduce DMC. One has to wonder how deep the reductions in racial disparities might be if every agency in juvenile justice pursued these same goals with the same vigor. But will those agencies undertake these types of self-critical examinations, or implement changes to their own policies and practices, absent external pressures, new leadership, or a push from a collegial agency? It will be interesting

FIGURE 15

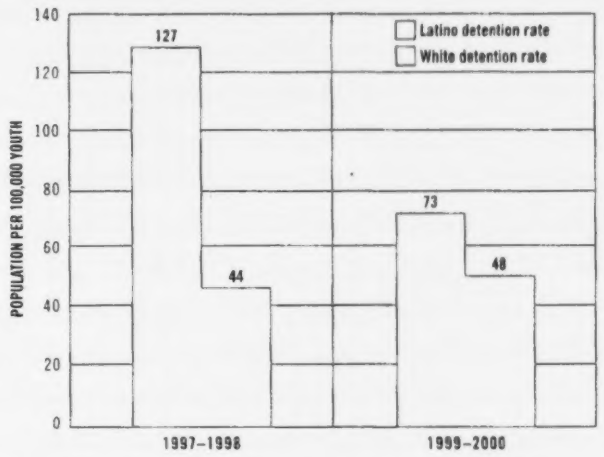
PERCENTAGE OF THE DETENTION POPULATION THAT WAS LATINO DROPPED 22% BETWEEN 1997 AND 2000



Source: Santa Cruz County Probation Department.

FIGURE 16

DETENTION RATE FOR LATINO YOUTH DECLINE BY 43% FROM 1997–1998 TO 1999–2000. DURING THAT TIME, THE AVERAGE DAILY POPULATION OF THE DETENTION CENTER DROPPED FROM 49 TO 37



Sources: *American FactFinder Quick Tables.* Race, Hispanic or Latino and Age: 2000 for Multnomah County. U.S. Census Bureau; Santa Cruz County Probation Department.

to watch if probation's reforms eventually influence prosecutors, defenders, judges, or the police.

If I could suggest a starting place for the District Attorney's Office, I would ask that they measure all of their filing decisions and processes by ethnicity. They should then review the data to see what it reveals. For example, they may learn that Spanish-speaking victims don't have the same access to the D.A. due to language barriers; therefore, the voice of a victim who may have wanted something other than locking a youth up would go unheard. By using data to improve the justice system processes, you eliminate the barriers and defensiveness that occur when people think are being called racists.—Judith Cox

New York City: Where There's No Will, There's No Way

New York City was one of the five sites selected for JDAI planning grants in December 1992. For a decade prior to its selection, the City's Department of Juvenile Justice had established a national reputation for improved conditions of confinement, thoughtful population control, and innovative case management. Department leaders had recently prevailed in a long, complicated process to win approval to have Spofford Juvenile Detention Center—long criticized for its poor design and decrepit physical plant—replaced by two modern, but smaller facilities. Since the combined capacity of the new facilities would be less than Spofford's, City officials were concerned that inappropriate or unnecessary use of detention could lead to overcrowding once the new centers opened. JDAI, City officials proclaimed, was perfectly timed given the challenges they faced in keeping their promise to close Spofford. With a history of creative management, and a determination to lower detention utilization, New York City scored high on the Foundation's two primary site selection criteria: The administrative capacity and political will to implement complicated, inter-connected reforms.

Analyses confirmed that African American and Latino arrestees were more likely to be formally charged, adjudicated, and placed in residential facilities than their white counterparts.

Detention reform planning went well in New York. In fact, it was one of only two sites whose initial plans were deemed sufficiently complete to merit implementation funding. As in other sites, New York had established both an inter-agency steering committee to provide overall direction, and a broader collaborative with various sub-committees to address specific issues. Initially, no structure was organized explicitly to address racial disparities, even though the City's detention population was almost exclusively African American and Latino. However, when inter-site discussions provoked all JDAI sites to focus more on DMC issues, the commissioner for juvenile justice took the lead in assembling an ad hoc committee to explore and address racial disparities. Various colleagues, from agencies of all types, rallied to this leader's call for attention and action.

The group began its work with a major quantitative study to determine if and where there were measurable disparities at key decision points in delinquency cases. The New York City Criminal Justice Agency, a large non-profit organization that provides pretrial release services to the City's criminal courts, conducted the study.

Its sophisticated, multi-variate analyses confirmed that African American and Latino arrestees were more likely to be formally charged, adjudicated, and placed in residential facilities than their white counterparts. Armed with these findings, the committee began to explore strategies for change.

In January 1994, however, a new administration took over City Hall. Its "get tough on crime" agenda did not align well with JDAI's objective to reduce inappropriate or unnecessary use of secure detention. Still, JDAI work continued, albeit without active support from City Hall, whose highly centralized approach to policy making severely limited the authority of the collaborative, reducing it to an advisory body to suggest policy and practice changes. Though work on various projects continued for the next few years, the political will for detention reform had largely disappeared. Eventually, the Foundation ceased funding New York City, acknowledging that JDAI and the City's policy directions were no longer the same. Even prior to that decision, as attention to detention reform waned, New York's detention population soared, despite significant decreases in serious juvenile arrests. And when the two new detention facilities came on line, the City's burgeoning detainee population led the administration to back away from the long-standing commitment to close Spofford. Today, Spofford continues to be used as a secure juvenile detention center and plans have been approved to add still more beds to the new facilities.

In an environment that no longer embraced detention reform in general, there was even less official interest in addressing racial disparities in juvenile justice.

What happened to the DMC work? Despite the departure of the juvenile justice commissioner (who was replaced by the new administration), many of the committee's members sought to sustain the work. Programmatic ideas were developed and multi-cultural diversity training was planned. But in an environment that no longer embraced detention reform in general, there was even less official interest in addressing racial disparities in juvenile justice. Despite the considerable personal and professional commitment of the DMC committee's members, their efforts, perhaps predictably, failed to gain traction in a context no longer supportive of detention reform in general.

Multnomah County, Oregon

Census Context

In 2000, Multnomah's youth population was 74% white, 10% African American, 8% Asian, 6% Latino, and 2% Native American.

Detention Context

In 2000, African Americans were 26% of admissions, Latinos were 8.5%, Asians were 4%, whites were 60%, and Native Americans were 1%.

Background

Of all the JDAI sites, Multnomah County probably had a headstart in thinking about and acting on racial disparities in its juvenile justice system. Oregon had been chosen as one of five places to be studied extensively following passage of the JJDPA DMC mandate. Professor William Feyerherm of Portland State University, one of the country's most cited experts on this issue, was locally based and accessible to policymakers seeking data or its accurate analysis. As a consequence of having this national light shined on it, the system's officials had begun talking about reducing these disparities prior to JDAI. For example, major efforts had already been initiated to diversify the work force and to build programmatic linkages with community organizations. Notably, Multnomah County was the only jurisdiction visited by the Casey Foundation's JDAI site selection committee to present data on DMC and to proclaim it a priority problem.

Perhaps because of this headstart, and despite continued overrepresentation of minorities in detention as compared to their presence in the general public, Multnomah's efforts to reduce disproportionality had the most measurable impact of any of the JDAI sites. Indeed, Multnomah is emerging as a national model in the area of reducing disparate treatment of minorities in the juvenile justice system. JDAI participants in this jurisdiction took very deliberate steps to reduce disparate treatment as part of their detention reform efforts and, like Santa Cruz, the detention reform leadership focused on making DMC reduction a key feature of each reform strategy.

Strategies to Reduce DMC

A 1993 analysis of Oregon's data by J. P. Heuser[22] found that detention processing and police referrals were major factors contributing to overrepresentation in Multnomah County. In the years prior to the detention reform initiative, the county had made much greater use of detention, and racial disparities were far higher. In 1993, the Donald E. Long Home (as the secure detention facility is known) consistently operated at full capacity, which was 128 beds at that time. However, 20 beds were rented by other counties, and 16 were devoted to a post-dispositional treatment program, leaving 92 Multnomah youth in the facility on an average day. The only reason the population did not go even higher was because a federal court consent decree mandated emergency releases whenever the population exceeded the court-ordered cap. By 2000, only 33 Multnomah County youth were in secure detention, including youth who had to be held due to new laws mandating detention in certain serious cases. Predictably, the "detention gap" between white and minority youth was also substantial prior to JDAI. In 1990, Latino youth were more than twice as likely to be detained as white youth (34% vs. 15%), and Asians, African Americans, and Native Americans were detained at rates that were 47%–60% higher than white youth.

In response to these data, Multnomah County initially set up a Disproportionate Minority Confinement Committee, chaired by Presiding Juvenile Court Judge Linda Bergman, with membership from the police department, district attorney, public schools, county commission, juvenile justice department (i.e., probation), and Portland State University. Its objectives were to promote fair and equitable decisions about police custody and detention and to ensure that system resources were accessible, culturally relevant, and appropriately used for all racial and ethnic communities. For a variety of reasons, including two major leadership changes, this committee achieved little and eventually became inactive, leaving behind virtually no real legacy. However, once leadership within the system had stabilized, the larger policymaking collaborative that gave overall direction to JDAI assumed responsibility for making sure that reduction of racial disparities was a key part of juvenile detention reform. Rick Jensen, Multnomah's JDAI Project Coordinator, noted that DMC issues proved to be more effectively pursued in the context of

comprehensive reforms (and, therefore, under the purview of the policymaking collaborative) because "disproportionality flourishes in a sloppy system."

As with much of Multnomah's successful detention reform initiative, efforts to reduce disproportionate minority confinement were data driven. According to Judge Bergman, "once we had real data, we were able to move from anecdotal information to data-based strategies, because now we knew how real the problem was." Multnomah had advantages in this regard because, as noted earlier, Professor Feyerherm consulted with Multnomah's JDAI. The Multnomah Department of Community Justice (as the probation agency is now known) also had a relatively large staff deployed to operate its automated data collection system and to provide some analysis.

Disproportionality flourishes in a sloppy system.

As Multnomah's policymaking collaborative developed its core detention reform strategies, it examined each to ensure that it addressed disparity. For instance, the county established a series of detention alternatives that were accessible to youth of color. These included shelter care, foster homes, home detention, and a day reporting center. These programs were contracted to local providers located in the communities of color where the majority of detained youth lived. They were established both as alternatives to admission to detention and to divert youth from being returned to custody for violating terms of their release. According to Feyerherm,

> *by using providers who were engaged with youth in these communities, not only would the location make them more available to the youth, but also it was hoped that the youth who might need additional social services would be placed in contact with agencies and persons who could provide those services.*[23]

Concurrent with the development of detention alternatives, Multnomah carefully developed an RAI to guide admission decisions, introducing it only after more than a year of discussion and pilot testing. A cross-agency team, including judges, defense attorneys, prosecutors, probation officers, detention counselors, school officials, and researchers, developed the instrument. "The objective," in the words of the public defender's representative, "was not to eliminate the use of detention, but rather to make sure the 'right kids' were detained."[24]

Because reducing racial disparities was an explicit priority, the committee that developed the RAI was careful to evaluate its individual elements through the lens of race. For example, instead of relying on criteria like "good family structure," which might be biased toward intact, nuclear families and, therefore, against minority youth, the instrument asks whether there is an adult willing to be responsible for assuring the youth's appearance in court. Likewise, the RAI dropped references to "gang affiliation" that might be biased against youth of color, who are often characterized in this manner simply by virtue of where they live. Instead of exclusively using "school attendance" as a mitigating factor, the concept was expanded to include "productive activity" (e.g., included training, part-time employment). Both were considered good indices of appropriateness for community placement while, for a variety of reasons, the narrower "school attendance" criterion might have skewed the RAI to the detriment of youth of color.[25]

The creation of a new detention intake team was critical to successful implementation of the RAI and effective utilization of detention alternatives in reducing DMC and detention rates. The team consisted of six to seven intake workers overseen by a "pretrial placement coordinator" (PPC). Each day, the team reviewed every single youth in detention, their risk assessment scores, their case status, and their amenability to community-based alternatives. The PPC did daily quality control checks to ensure that youth were being processed expeditiously and that staff were faithfully adhering to the RAI. This provided a level of quality control quite unique for public bureaucracies. If one worker, for example, was overriding the RAI at a significantly higher rate than other workers, or at a significantly higher rate for minorities than for whites, that pattern could be noted and addressed immediately. The result of this level of swift and consistent oversight was substantial compliance with the system's reform efforts. "While we saw some effect from the creation of the risk assessment instrument initially," stated Jensen, "the impact wasn't really maximized until we created a system of internal accountability. Then, the reforms really began to kick in."

Another key detention reform strategy was the development of a new system for dealing with the 20%–30% of admissions that were for probation violations (see ***Pathway 9, Special Detention Cases***). Prior to JDAI, Multnomah County

detained many youth who violated probation, often inconsistently and frequently without regard to the risks or needs posed by the youth. To reduce the use of detention for violations of probation (VOP) and to minimize staff inconsistencies, the county developed and implemented a "sanctions grid" for its community supervision staff to follow. The grid provided a range of sanctions to be used depending on the seriousness of the violation and the youth's overall risk status. Officers could choose among specific options, but they could not go outside the grid's ranges. Moreover, line staff could not place youth in detention for a VOP without having first tried other sanctions. Finally, decisions to detain VOP cases now have to be approved by the supervisor and by an "alternative placement" committee. The new sanctions grid immediately reduced the detention population.

Several explicit DMC strategies also had an impact on the changes that occurred in Multnomah. For example, representation of indigent youth was enhanced by hiring four half-time trial assistants to help attorneys improve pretrial placement planning. The trial assistants helped lawyers by obtaining the lists of children who were scheduled for preliminary hearings and by obtaining discovery about the youth and his or her charges prior to the hearing. They also identified strengths and resources a youth might have in the community and appropriate community-based programs. Trial assistants attended pretrial placement planning meetings, where all the stakeholders—the district attorney, defender, probation, and others—made decisions about the appropriate placement of youth scheduled for preliminary hearings. Because the trial assistants enabled defense attorneys to have pretty much the same information the prosecution and probation had, these planning meetings were fairer and more effective. Enhanced representation resulted in a significant increase in the use of alternatives for youth who would have otherwise faced secure detention. Given the data presented earlier showing that minority youth, represented by overburdened public defenders, generally experience more restrictive outcomes than youth represented by retained counsel, enhancing indigent defense may well have played a role in leveling the legal system's playing field.

The probation department also sought to diversify its staff. According to Jensen, in the early 1990s, the director of juvenile probation (which is today part of the Department of Community Justice), Harold Ogburn, made a determined

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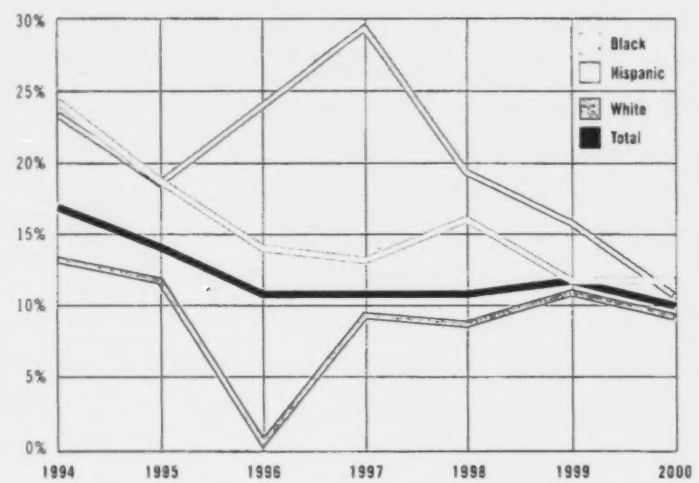
and successful effort to "make the department look like the community." Like most of the other agencies addressing delinquent youth, probation had been largely staffed by whites. By the time JDAI started, staff of the department reflected the demographic diversity of Multnomah County, a factor that facilitated efforts to achieve parity in treatment.

The JDAI leadership also worked in coalition with the police. Portland established a community-policing effort that brought law enforcement into contact with youthful offenders in a different way than more traditional policing approaches. Commander Robert Kauffman, who for a time was in charge of training community police officers, incorporated the JDAI efforts into his curriculum, so new community police officers were educated in detention reform efforts from the outset of their service. Training community police officers in the goals of the JDAI, in turn, helped divert a lot of youth from ever being referred to the juvenile justice system.

How did these reforms affect detention utilization overall and racial disparities in particular? In 1993, the average daily detention population in Multnomah County was 92. By 1995, when the RAI was put into effect, the average daily detention population began dropping, despite the group of youth being held on "Ballot Measure 11" (i.e., transfer to adult court) charges, for which detention is mandatory. By 2000, the average daily population had been reduced to 33. In 1994, there was an 11-percentage-point difference between African Americans (24%) and whites (13%)

FIGURE 17

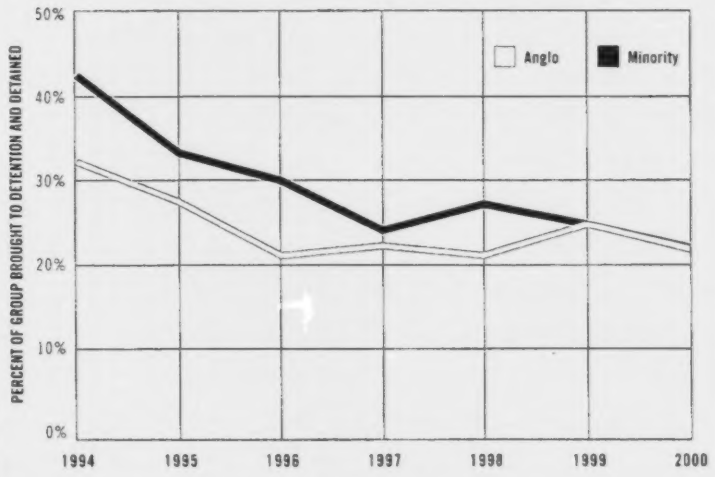
PROPORTION OF MULTNOMAH COUNTY DELINQUENCY REFERRALS RESULTING IN DETENTION, BY RACE AND ETHNICITY



Source: Keir, Scott et al. *Juvenile Minority Over-Representation in Multnomah County's Department of Community Justice: Final Report for 2000* (1990–99). Portland, OR: Department of Community Justice, 2001. Rates for Native American and Asian youth are not presented because the number of cases involving those youth are too small to make generalizations, and their presence in this table could inaccurately skew the data.

FIGURE 18

DCJ DETAIN RATE BY ANGLO/MINORITY OVER TIME: 1994–2000



Source: Multnomah Department of Criminal Justice, 2001.

in the likelihood that an arrested youth would be detained at some point in his or her case. Between Latinos (23%) and whites, the difference was 10%. By 1995, this detention "gap" dropped to 6 percentage points for both African Americans and Latinos. The differentials dropped still further by 2000, to 3 percentage points for African Americans (12% vs. 9% for white) and to 2 percentage points for Latinos (11%) *(see Figure 17)*.

As *Figure 18* shows, when paper referrals (i.e., youth who are arrested, not brought to detention intake, but issued a summons to appear in court at a later date) are taken out of the mix, and all ethnic and racial minorities are aggregated together, the disparity between white and minority odds of being detained vanishes *(see Figure 18)*.

Multnomah's detention reform strategies significantly impacted disproportionality in part because they had an extraordinary impact on the number of detention admissions. Between 1994 and 2000, the number of youth admitted to detention dropped by half for all youth (from 1,107 in 1994 to 478 in 2000) and by half for both African American and Hispanic youth.

It appears, therefore, that the core detention strategies described above, combined with explicit DMC strategies and an overall focus on reducing disparities, leveled the playing field insofar as the likelihood that an arrested youth will be detained is now pretty much the same for all racial and ethnic groups.

These successes are more notable because the strategies were all implemented during a time when local concerns over youth crime and immigration worked against reform in general and reducing racial disparities in particular. In the mid-1990s, Oregon, like many states, pursued punitive new juvenile justice policies, like Ballot Measure 11, an initiative passed overwhelmingly by Oregon voters that mandated that youth charged with certain very serious crimes be tried as adults. All

youth charged under Ballot Measure 11 must be held prior to trial, and this seems to have contributed to increased disparities in Multnomah. Even though the county's youth population is three-quarters white, youth of color comprise the majority detained under this new law. African Americans, who are just 10% of the youth population, are 43% of Ballot Measure 11 admissions to detention. Even though they are in the adult court system for trial, these youth are still housed in the Donald E. Long Home, adding about 15 youth to the facility's population on an average day. While many of these youth may have been detained without Ballot Measure 11, prior utilization patterns indicate that some would not.

In 2000, only 12% of African Americans, and 11% of Latinos with formal court referrals were detained, and the average daily population in secure custody dropped from 92 in 1993 to 33 in 2000.

Along with youth crime, fears and concerns over immigration were heightened in Oregon, as they were throughout the West Coast during the early 1990s. With the highly publicized passage of California's Proposition 187—an initiative that disqualified undocumented residents from attending public schools or using public hospitals—fear of immigrants reached a high point in 1994. Prior to 2000, the Donald E. Long Home detained youth on Immigration and Naturalization Service (INS) holds, a factor that partly explains why disparities for Latino youth were consistently higher than for other groups. Last year, the Department of Community Justice declined to renew its contract with INS and, in the intervening period, the proportion of referred Latino youth in pretrial detention declined by 31%.

Successes and Challenges

Feyerherm cited three factors as contributing to Multnomah County's successful efforts to reduce racial disparities in detention utilization:

1. the development of alternatives to detention,
2. training to raise awareness about overrepresentation,
3. the design and implementation of an RAI.[26]

Additionally, rigorous oversight, improvements in case processing, and enhanced defender services assured that all of the above factors were used to make the system more efficient and, ultimately, fairer.

It is difficult to assess how much difference any particular core or DMC-specific reform strategy made in Multnomah County. But it is safe to say that somewhere in that stew of detention reforms—both general and DMC-specific—a combination was found that produced results greater than the sum of the parts.

It seems important to remember that Multnomah's initial DMC committee proved ineffectual, but the larger, more authoritative detention reform policy collaborative took DMC reduction on as one of its central goals. Like Santa Cruz, the fact that DMC reduction became the focus of the initiative's leaders, instead of a subcommittee of subordinates, sent both a broad message about values and ensured that core detention reform strategies would always be examined through a racial lens. The county's efforts to raise awareness of racial disparities occurred simultaneously with the implementation of substantive and practical population management strategies. The synergy of awareness-raising and action appears to have had much more impact than the former could have on its own and seems to have put some "teeth" into efforts to heighten sensitivity.

Finally, it is important to remember that Multnomah had superior capacities to produce timely data and related analysis as tools to draw on for discussions. The availability of facts appears to have reduced defensiveness among system players. Since 1997, DCJ has had a full-time research and evaluation specialist, with a background in methodological techniques, who is able to measure the county's progress in juvenile detention reform. These data collection and analysis capacities have served to reinforce early gains and continue to propel this agenda forward.

Multnomah County has improved its detention system overall and reduced disproportionate minority confinement. In an area of justice system policy and practice for which there are precious few models, Multnomah's success is significant.

King County, Washington—A Promising Approach Unfolds

Informed by the work in Multnomah County and Santa Cruz County (and other sites nationally), the *Building Blocks for Youth* initiative has been working with King County over the past several years to reduce overrepresentation of minority youth in its juvenile justice system.

Spearheaded by the Youth Law Center's James Bell,[27] this effort began with the establishment of a committee of hig vel juvenile justice system officials, co-chaired by State Supreme Court Justice Bob Bridges and County Councilman Larry Gossett. Phase I of the project involves reducing disparities at arrest. In Phase II, efforts will be made to address detention. Phase III will address dispositional decisions.

The project is currently in the data-gathering stage of Phase I, but there have already been several promising developments. The Seattle Police Department hierarchy has embraced this effort, and data are being collected on both traffic and pedestrian stops of youth by racial and ethnic categories. Importantly, the police officer's union voted to support these efforts. As the experiences of several JDAI sites have shown, a lack of support from police will doom efforts to reduce arrest-related disparities. Although changes in outcomes were not expected during these discussion and data-gathering activities, King County has already had a reduction in its detention population. This is most likely due to heightened attention to detention issues and related changes in policies and practice resulting from a county "master plan" and a reorganization of critical agencies.

As part of the initial data-gathering work, youth from throughout Seattle were hired to conduct city-wide community mapping. From this information and the police data, the committee intends to select areas for targeted programming and make adjustments to police practices as warranted. Already, police have found that Latino youth are over-represented in traffic citations for driving with a suspended license, and they are beginning to develop appropriate strategies in response.

While it is too early to tell what the ultimate outcome of the King County project will be, it is off to a promising start. The initiative will track the course of youths who are arrested and detained from three neighborhoods, comprising 70% of Seattle's detention intake, to identify the paths youth of color take before they are detained. King County participants also plan to replicate and build on some of the efforts pioneered by JDAI sites in tackling the thorny problem of disproportionate minority confinement.

Notes

[1]Interview with Bernardine Dohrn, Director, Children and Family Justice Center, January 29, 2001.

[2]Interview with John Rhoades, Chief of Probation, Santa Cruz, California, March 3, 2001.

[3]Interview, Cook County JDAI participant, 2001.

[4]Interview, Cook County JDAI participant, 2001.

[5]Interview, Cook County JDAI participant, 2001.

[6]Michael Lindsey, President Raymine, Inc., provided technical assistance and training to sites on DMC.

[7]Judge Sophia H. Hall. *Cook County Interoffice Cultural Diversity Management Training Initiative Update,* October 1997.

[8]*Juvenile Detention Alternatives Initiative Interim Summary Evaluation Report.* National Council on Crime and Delinquency, February 1998.

[9]Interview, Cook County JDAI participant, 2001.

[10]Interview, Cook County JDAI participant, 2001.

[11]Interview, Sacramento JDAI participant, 2001.

[12]Interview, Sacramento JDAI participant, 2001.

[13]Root, Gerald E. *Findings About Characteristics Common to Youth at Risk and Booked into Sacramento's Juvenile Hall.* Sacramento, California: Criminal Justice Cabinet.

[14]Interview, Sacramento, JDAI participant, 2001.

[15]Interview, Sacramento JDAI participant, 2001.

[16]Jones, 1999; Census 2000.

[17]Root, Gerry. "Executive Summary: Disproportionate Minority Confinement in the Juvenile Justice System—Research Project." Sacramento, California: Criminal Justice Cabinet, June 1999.

[18]Interview, Sacramento JDAI participant, 2001.

[19]Root, Gerald E. *Committee Responses.* Sacramento, California: DMC Research Committee, 1998.

[20]Interview, Santa Cruz DMC Committee Participant, February 15, 2000.

[21]Cox, Judith A. *Addressing Disproportionate Representation within the Juvenile Justice System.* Santa Cruz, California: Santa Cruz County Probation Department, September 2000.

[22]J.P. Heuser, *Final Research Report on Phase I of Oregon's Participation in the Office of Juvenile Justice and Delinquency Prevention Disproportionate Minority Confinement Program.* Report to Oregon Community Children and Youth Services Commission, 1993.

[23]Feyerherm, William H., Detention Reform and Over-representation: A Successful Synergy, *Corrections Management Quarterly,* 2000, 4(1), 44–51, Aspen Publishers.

[24]Feyerherm, 2000.

[25]Feyerherm, 2000.

[26]Feyerherm, 2000.

[27]To further promote the reduction of DMC nationally, Mr. Bell recently announced the creation of the W. Haywood Burns Institute, devoted exclusively to the reduction of youth justice system disproportionality.

Chapter 5

LESSONS LEARNED

The stories of these sites' efforts to reduce racial disparities in juvenile detention are rich and provocative, but they stimulate as many questions as they answer. These lessons, like the sites from which they emerged, may be filled with contradictions and inconsistencies or based on limited data. Certainly, the lessons are not presented as a kind of reform gospel. Folks in the JDAI sites will be the first to note that much remains to be done and, therefore, learned. What follows is primarily a synthesis of their experiences, based equally on both their successes and failures. It is hoped that these lessons will flatten the learning curves of sites to follow.

1. Without a commitment to juvenile detention reform in general, reducing racial disparities is unlikely.

It is not insignificant that the sites that registered the most measurable changes, in terms of the numbers of youth of color detained and the rates at which they are detained, were sites that sustained an overall commitment to detention reform. This seems true for two reasons. First, change of this sort requires persistent effort, both to develop new policies and practices, but also to "unlearn" the old culture and habits that contribute to unnecessary reliance on detention and disproportionate confinement of minority youth. It is simply unlikely that we will find this persistence absent real commitment to system reform. When political will for reform disappeared in New York City, for example, the opportunities to sustain work on racial disparities were substantially reduced and, eventually, discontinued because there was no longer a reform context in which they might be realized.

Second, it seems pretty clear that "core" detention reform strategies, especially those implemented for population reduction purposes, are necessary components for success in reducing racial disparities. All of the sites that reduced the numbers of youth of color who were detained effectively introduced those core strategies. However, there are several instances, not reported here, in which sites made significant progress with the core strategies but did not reduce racial disparities.

Broward County, Florida, a well-documented leader in detention reform in the early 1990s, is a good example. These core strategies, therefore, appear necessary but are not sufficient by themselves to change DMC patterns.

2. An explicit focus on reducing racial disparities is essential.

The sites that had the greatest success reducing disparities were those that developed a very sharp and explicit focus on reducing minority overrepresentation in detention. In both Santa Cruz County and Multnomah County, reform participants did not see reducing DMC as a necessary byproduct of their general detention reform efforts. Instead, they made a point of publicly identifying the issue, and they challenged their agencies and colleagues to take action by implementing specific changes conceived and designed to reduce disparities and by examining the core strategies through the lens of race. Their successes, as measured by their actual outcomes, imply that an explicit DMC focus, and DMC-specific strategies, combined with effective implementation of core detention reform strategies, provides the most potent mixture for change.

An explicit DMC focus, and DMC-specific strategies, combined with effective implementation of core detention reform strategies, provides the most potent mixture for change.

3. Reducing racial disparities requires authoritative leadership.

In all the sites we have discussed, DMC reduction was a goal for some people and often for many. But in Multnomah and Santa Cruz, the top leaders very explicitly embraced the issue and used their bully pulpits and their authority to push the agenda ahead. Absent strong leadership from those charged with setting policy and controlling budgets, it is typically quite difficult for system personnel to take the risks associated with this kind of sensitive issue, and it may be impossible to find resources for things like research, training, or new community-based programs.

4. Define the problem in terms that can be changed.

One of the problems that both Sacramento County and Cook County experienced was defining the problem in ways specific enough for initiative participants to take concrete action. Sacramento, for example, moved "upstream," trying to identify and solve a variety of problems that contribute to juvenile delinquency in

the hopes of reducing the flow of youth into juvenile justice. While that is certainly a noble aspiration, few if any leaders or line staff could immediately do anything to fulfill that goal. They could not reduce poverty, end family dysfunction, improve early education opportunities, or ensure that every child got a healthy start. In contrast, Santa Cruz's checklist was brilliant in its simplicity and directness. The checklist identified a host of things that could be changed, and people were then deployed to accomplish those tasks. Rather than get bogged down in matters that are not amenable to detention system reform, sites need to focus on those things that can be changed because they are within their system's purview.

5. Emphasize action, not just discussion or training.

The JDAI sites that had the most success in reducing racial disparities had a very pronounced bias for action. To be sure, there were discussions of the causes of disparities and efforts to heighten awareness and sensitivity. But those discussions served to reinforce practical change, not to resolve philosophical dilemmas. In Multnomah County, for example, discussions driven by data analysis guided the design and implementation of concrete strategies (like the RAI) and proved to be a powerful way to stimulate change and reinforce commitment.

In contrast, ever since the passage of the JJDPA DMC mandate, little progress has been made nationally because most jurisdictions either remain stuck in abstract discussions or have relied on racial and cultural sensitivity training ungrounded in policy change or day-to-day operations. Indeed, after so many years and so many dollars spent, it should be clear that such training, no matter how necessary, well-conceived, or well-received, will not suffice to move the system's DMC-outcome indicators if it is not linked to changes in policies, programs, and practices.

6. Broad, diverse coalitions can facilitate DMC reduction.

JDAI was premised on the notion that juvenile justice agencies had to collaborate with each other and with partners from other public agencies and the community, lest even the best-designed strategies fall prey to obstruction or half-hearted implementation. The sites' experiences indicate that this premise is particularly relevant in the area of DMC. In Multnomah County, for example, it was the

leaders from the juvenile justice system's agencies that made up the policy reform body. Together, they lent a weight to the DMC effort that was greater than the sum of the parts. Similarly, partnerships with other public agencies are important, because so many detainees, and especially youth of color, are, in essence, refugees or rejectees from other human service systems. In Santa Cruz, the very common detention population management problem of lots of youth awaiting placement was handled by building partnerships with county agencies to broaden the mix of dispositional options available to the courts. In Cook County, the inclusion of community-based organizations in the JDAI collaborative was probably the key breakthrough that enabled it to build an impressive continuum of programmatic options.

An individual agency, determined to address racial disparities in detention, can move this mountain.

7. Individual agencies can make a difference.

Without intending to contradict the lesson just discussed above, it is clear from the Santa Cruz experience that an individual agency, determined to address racial disparities in detention, can move this mountain. The probation department decided not to wait until there was consensus across justice system agencies to take on this issue. It moved decisively on those aspects of policy, program, and practice that were under probation's purview. The changes that were implemented by probation made a difference. It will be interesting to see whether or not its example will spread to other agencies. In any event, a lack of partners should not become an excuse for individual agencies to remain passive.

8. Keep the police in the work.

Racial disparities in juvenile detention begin at the arrest stage. In fact, it is these disparities that set the stage for disproportionality at all the other decision points in the court process. In places like Cook County and New York City, the overwhelming majority of juvenile arrestees are youth of color. While Cook County demonstrated that it could reduce the overall number of such youth in detention, it did not change their relative proportion of the detained population. To do that will require an examination of police policies and practices to determine

if it is possible to alter the flow of cases. If the police are not at the table, neither the data nor the authority to affect such change will be present.

In trying to involve the police in efforts to reduce racial disparities in the justice system, it is important to be aware of the liabilities that law enforcement perceives it faces. Recent lawsuits about racial profiling, for example, would cause many police officials to worry that honest participation in these kinds of projects would subject them to litigation. There is insufficient evidence to suggest specific remedies for this dilemma, but it is clear that, in some places, notably King County, the police can in fact be full, active partners in this process of making juvenile justice more fair.

9. Data really helps.

Although it is frequently difficult to collect data because of the generally poor status of many systems' information technology, it is clear that having timely accurate data, and the capacity to analyze it, can really make a difference in DMC-reduction efforts. For one thing, data can be used to define the problem, both its scope and the specific points at which disparities increase. Those kinds of analysis enable policymakers to focus on specific policies or practices that otherwise might be overlooked. Santa Cruz's experience identifying underutilization of pretrial diversion with Latino youth is a good example of how data can inform choices. On the other hand, the lack of police data on arrests in Cook County severely limited their efforts to develop DMC strategies. Data is also very helpful in depersonalizing these issues. When people have facts before them, they tend to accept them and seek to move on to solutions rather than getting lost in blame and guilt. Finally, data is critical to monitor and reinforce changes. It is no accident that the JDAI site with the greatest analytical capacities (Multnomah) had the greatest outcome changes. Consistent reporting of data reinforced progress or indicated when change was not happening.

At the same time, it is important to note that data is not the magic bullet. New York City, for example, conducted a rigorous analysis of disparities at key decision points, clearly identifying areas ripe for change. However, without a sustained commitment to detention reform, this research proved of little value to youth in

confinement. Similarly, the DMC mandate in the JJDPA has required all states to statistically analyze disproportionate minority confinement in general and at specific points in the process. Few states if any, however, have found effective ways to translate those data into actions that resulted in measurable reductions in racial disparities.

10. It is possible to reduce racial disparities in juvenile detention.

Since 1989, federal mandates have provided that states should do something about DMC, but there has been little progress. Indeed, nationally and in most states, racial disparities in juvenile justice deepened throughout the 1990s. Multnomah and Santa Cruz demonstrate empirically that jurisdictions can not only reduce the number of youth behind bars (something Cook County also accomplished), but also the odds that kids of color will be detained. After more than a decade of focus and dozens of studies, we now have examples of success—not on paper, but in emerging models, whose lessons are relevant to all who aspire for a fairer justice system for juveniles.

After more than a decade of focus and dozens of studies, we now have examples of success.

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Organizations

Annie E. Casey Foundation
Juvenile Detention Alternatives Initiative
701 St. Paul Street
Baltimore, MD 21202
410-547-6600
www.aecf.org

Juvenile Detention Alternative Initiative Sites

Cook County
Mike Rohan, Director
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1100 S. Hamilton Avenue
Chicago, IL 60612
312-433-6575

Multnomah County
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Sacramento County
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Pretrial Services Resource Center
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